



February 23, 2010

Alberta Utilities Commission
Utilities Division, Calgary Office
#400, 425 1st Street SW
Calgary, Alberta
T2P 3L8

Attention: Darin Lowther
Director, Market Rules

Dear Mr. Lowther:

Re: Bulletin 2010-06 - Introduction of Proposed Rule 027 – Specified Penalties for Contravention of Reliability Standards

EPCOR hereby provides its comments in the above noted matter.

EPCOR generally agrees with the overall approach taken by the Commission on this matter. The consultation process has been well conducted, and the results so far reflect meaningful input from stakeholders and consideration by the Commission. In EPCOR's view, there are two areas however that are of some concern regarding the proposed Rule 027.

First, section 4(8) directs that a self-disclosure statement be made in writing directly to the MSA. In EPCOR's view, it is not the responsibility of the MSA to investigate any potential contravention of Reliability Standards, whether or not it is self reported. It is the MSA's responsibility to act on referrals made by the AESO, to enforce penalties for contravention. The process contained in section 6.3 of the AESO's Compliance Monitoring Program directs the self reporting to be made to the AESO as the Compliance Monitoring Authority. This is consistent with the role of the AESO. The MSA should only act on referrals received from the AESO. EPCOR submits that sections 4(8) through 4(10) should be removed, as they are within the prerogative of the AESO to establish within its own responsibilities as set out in section 23(1) of the Transmission Regulation (Alberta Regulation 86/2007).

Second, the Commission itself is seeking input regarding an adjustment table. EPCOR believes that the MSA needs flexibility in assessing penalties to recognize that the circumstances of each case will be different. EPCOR suggests that the MSA can establish its own framework for doing so, and it need not be prescribed in the Rule. Language in the Rule should reflect this latitude, providing the penalty amounts in the tables as upper limits to what can be assessed. It is EPCOR's submission that all mitigating circumstances cannot be foreseen, and therefore cannot be included in the proposed Rule. For example, a literal interpretation of the proposed Rule could see multi-million dollar penalties assessed for contraventions that may have occurred but were undiscovered for several months or even years because the penalties are assessed on a per day basis. The MSA should have latitude in assessing the penalty, including consideration of when knowledge of the contravention

occurred. It is EPCOR's understanding that the practice in some of the U.S. jurisdictions that has evolved so far is that for first time violations, the penalty has been applied once per violation rather than on a daily basis. The MSA should be able to exercise a similar level of flexibility.

For any questions or for further clarification, please contact Kirk Poteet at (403) 717-8135, or kpoteet@epcor.ca.

Yours truly,

EPCOR Utilities Inc.

<Submitted electronically>

Kirk Poteet
Senior Manager, Policy
Regulatory Affairs