



23 February 2010

Mr. Darin Lowther  
Director, Market Rules  
Alberta Utilities Commission  
4th Floor, 425 - 1st Street SW  
Calgary AB T2P 3L8

**RE: Input on Proposed Rule 27**

Dear Mr. Lowther;

The Independent Power Producers Society of Alberta appreciates the specified penalty approach to the enforcement of reliability standards contained in the Alberta Utilities Commission (AUC)'s Rule 27.

The following are some specific comments on the rule:

- At Notice of Specified Penalty S.3(4), we recommend that the AUC reconsider the 2 year and 4 year timeframe that the Market Surveillance Administrator (MSA) has to penalize an infraction. The ability of parties to fairly respond to a penalty, or to even recall the circumstances around a penalty, diminishes over time. We believe the window of time proposed in the rule detrimentally impacts a participant's procedural protections. We recommend that the AUC narrow the window to one year and two years respectfully, for this Rule and for Rule 19 as well.
- At Penalty Assessment S. 4(2), we are concerned that the Rule enables penalties to be assessed to both "requirements or an element of a requirement" within a standard. To us this means that penalties can be levied for a breach of both a 'requirement' of a reliability standard and a 'measurement' of that requirement, for example. We recommend that only breaches of a reliability standard's requirement should face a penalty.
- At Penalty Assessment S. 4(6) and 4(7) we recommend that no penalty be assessed if a participant has an MSA-approved mitigation plan, unless the participant fails to live up to the terms of that plan. Rather than having these plans filed in lieu of the first penalty, perhaps such plans can be filed to the MSA for its approval at some time after the standard is ratified by the AUC. The plans would explain how the participant will become compliant with the reliability standard, which may require a capital investment coinciding with the next appropriate scheduled maintenance at its facility. Penalties would only apply should the facility continue to be out of compliance beyond the dates committed to in the compliance plan.
- At Adjustment Penalty Table, a penalty of 'concealment' should warrant more than the MSA's discretion. Fines for concealment should be removed from this rule and should be investigated as an administrative penalty issue.

Thank you for considering our input.

Sincerely,

A handwritten signature in blue ink, appearing to read "Evan Bahry".

Evan Bahry  
Executive Director

Suite 400, 505 - 8th Avenue SW  
Calgary, Alberta T2P 1G2

T: (403) 282-8811 F: (403) 256-8342  
www.ippsa.com