

Bulletin 2011-28

December 7, 2011

Revision of Rule 019: *Specified Penalties for Contravention of ISO Rules*

On December 6, 2011, the Alberta Utilities Commission (AUC or the Commission) approved amendments to AUC Rule 019: *Specified Penalties for Contravention of ISO Rules* (AUC Rule 019). These amendments will take effect on January 1, 2012.

The revised AUC Rule 019 (see attached), as well as a matrix of stakeholder comments and the Commission's responses can be found on the Commission's website by clicking on [Rule Development – Rule 019](#) or [Market Consultations](#).

The Commission thanks stakeholders for taking the time to review and provide comments with regard to the amendments to AUC Rule 019.

If you have any questions regarding this rule amendment, please contact Darin Lowther at 403-592-4507 or darin.lowther@auc.ab.ca or Andrew Davison at 403-592-4455 or andrew.davison@auc.ab.ca.

(original signed by)

Robert D. Heggie
Chief Executive

Rule 019

Specified Penalties for Contravention of ISO Rules

This rule as amended was approved by the Alberta Utilities Commission on December 6, 2011 and is effective on January 1, 2012.

Contents

1	Definitions.....	1
2	Application.....	2
3	Notice of specified penalty	2
4	Penalty assessment.....	3
5	Posting of notice of specified penalty.....	4
6	Contraventions prior to July 1, 2008.....	4
	Penalty Table	5

1 Definitions

1.1 In these rules,

- (a) “asset” means an asset as defined in the ISO rules;
- (b) “Commission” means the Alberta Utilities Commission;
- (c) “ISO” means the Independent System Operator established under the *Electric Utilities Act*;
- (d) “ISO rules” means the rules made by the Independent System Operator under the *Electric Utilities Act*.

1.2 For purposes of this rule, the 12-month rolling period is the period which is 365 days before the date on which the contravention of the ISO rules occurred.

2 Application

These rules apply to the contravention of ISO rules.

3 Notice of specified penalty

3.1 The Market Surveillance Administrator may issue a notice of specified penalty under section 52 of the *Alberta Utilities Commission Act* for the contravention of the ISO rules listed in the [penalty table](#) on pages 5 and 6 of this rule.

3.2 A notice of specified penalty must state

- (a) the name of the market participant who is required to pay the specified penalty;
- (b) ISO identifier of the asset related to the contravention, if applicable;
- (c) the date or dates of the contravention;
- (d) the ISO rule that was contravened;
- (e) a description of the conduct of the market participant named, its officers, personnel, or agents, the activity or omission which resulted in the contravention or any other particulars relating to the contravention;
- (f) a description of the facts on which the Market Surveillance Administrator relied on to conclude that a contravention had taken place;
- (g) the amount of the specified penalty for each day of the contravention, if the contravention continues for more than one day;
- (h) whether any adjustment to the specified penalty was made due to the self disclosure of the contravention by the market participant;
- (i) the date, at least 30 days from the date of issuance, on which the payment of the specified penalty is due;
- (j) that failure to pay the specified penalty will result in a hearing or other proceeding before the Commission; and
- (k) that if the market participant named disputes the issuance of the notice, to inform the Market Surveillance Administrator of the dispute and that a hearing or other proceeding before the Commission will result.

- 3.3 The Market Surveillance Administrator shall send the notice of specified penalty to the person in the position identified in the [penalty table](#).
- 3.4 The Market Surveillance Administrator must issue a notice of specified penalty under this section within
- (a) two years after the date on which the Market Surveillance Administrator first knew, or in the circumstances ought to have known of the contravention, or
 - (b) four years after the date on which the contravention occurred,
- whichever period expires first.

4 Penalty assessment

- 4.1 The Market Surveillance Administrator shall determine the amount of the specified penalty in accordance with this section and the penalty table.
- 4.2 For contraventions of the ISO rules listed in category 1, 2 or 3 of the penalty table, the Market Surveillance Administrator shall escalate the amount of the specified penalty at the level of reoccurrence in the penalty table, in accordance with the number of contraventions which have been issued in the 12-month rolling period, as follows:
- (a) by asset of the market participant, in the case where the Market Surveillance Administrator has issued less than five notices of specified penalties in relation to the same asset of a market participant as a result of one or more contraventions of the same ISO rule; or
 - (b) by market participant, in the case where the Market Surveillance Administrator has issued five or more notices of specified penalties in relation to any asset of a market participant as a result of one or more contraventions of the same ISO rule.
- 4.3 In the case where a market participant self-discloses a contravention of an ISO rule listed in the penalty table, the Market Surveillance Administrator shall determine the amount of the specified penalty in accordance with this section and the penalty table and reduce the amount of the specified penalty by 50 per cent.
- 4.4 Self-disclosure statement referred to in subsection (3) must
- (a) be made in writing to the Market Surveillance Administrator, with a copy made in writing to the ISO, prior to the ISO or the Market Surveillance Administrator contacting the market participant about the contravention;
 - (b) include the name, address, telephone number and email address of the market participant;

- (c) describe in detail the contravention, including the ISO rule that was breached, the date, time and duration of the contravention of the ISO rule; and
- (d) any other information the market participant considers to be relevant to the events that took place.

5 Posting of notice of specified penalty

- 5.1 The Market Surveillance Administrator shall make public any notice of specified penalty issued for a contravention of ISO rules under section 52 of the *Alberta Utilities Commission Act*, no earlier than 30 days and no later than 45 days after the notice of specified penalty is issued and post the notice on the Market Surveillance Administrator website.
- 5.2 Where a market participant has failed to pay the specified penalty or disputes the notice of specified penalty and the notice of specified penalty is posted, the Market Surveillance Administrator shall
 - (a) indicate on its website that the specified penalty has not been paid or that the notice of specified penalty is being disputed; and
 - (b) once the Commission has rendered a decision with respect to the specified penalty, post on its website the link to the decision of the Commission respecting the specified penalty.

6 Contraventions prior to July 1, 2008

For purposes of subsection 4(2), the assessment of penalties shall be from the first contravention that occurred on or after July 1, 2008.

Penalty Table

Nature of contravention	First contravention in a rolling 12- month period	Second contravention in a rolling 12-month period	Third contravention in a rolling 12-month period	Fourth and subsequent contravention in a rolling 12-month period
<p>Category 1</p> <p>Failure to comply in whole or in part with the following ISO rules: 1.8, 3.2, 3.3, 3.4, 6.2.3, 6.3.8, 6.5.3, 9.1.2, 9.1.3, 9.1.5, 303.1, 502.4, OPP 003.1, OPP 003.2, OPP 102, OPP 403, OPP 404, OPP 601, OPP 603, OPP 806</p>	<p>A specified penalty of \$500</p> <p>Notice of specified penalty to senior executive of business unit of the market participant involved in the contravention</p>	<p>A specified penalty of \$1,500</p> <p>Notice of specified penalty to senior executive of business unit of the market participant involved in the contravention</p>	<p>A specified penalty of \$ 5,000</p> <p>Notice of specified penalty to senior executive of business unit of the market participant involved in the contravention</p>	<p>A specified penalty of \$10,000</p> <p>Notice of specified penalty to the most senior executive of the market participant (i.e. president, chief executive officer) or its parent company if the market participant is a wholly-owned subsidiary or affiliate, or chief compliance officer, if applicable</p>
<p>Category 2</p> <p>Failure to comply in whole or in part with the following ISO rules: 3.5.2, 3.5.3, 3.5.4, 3.5.5, 3.6.2, 3.6.3, 5.2, 6.2.2, 6.3.3, 6.3.5, 6.4.3, 6.5.2</p>	<p>A specified penalty of \$500</p> <p>Notice of specified penalty to senior executive of business unit of the market participant involved in the contravention</p>	<p>A specified penalty of \$1,500</p> <p>Notice of specified penalty to senior executive of business unit of the market participant involved in the contravention</p>	<p>A specified penalty of \$3,000</p> <p>Notice of specified penalty to senior executive of business unit of the market participant involved in the contravention</p>	<p>A specified penalty of \$5,000</p> <p>Notice of specified penalty to senior executive of business unit of the market participant involved in the contravention</p>

Penalty Table (contd.)

Category 3

For the purpose of category 3 contraventions the count of contravention in a rolling 12-month period begins on September 1, 2009.

Nature of contravention	First contravention in a rolling 12-month period	Second contravention in a rolling 12-month period	Third contravention in a rolling 12-month period	Fourth and subsequent contravention in a rolling 12-month period
<p>Category 3</p> <p>Failure to comply in whole or in part with ISO rule 6.6</p>	<p>A specified penalty of \$1,500</p> <p>Notice of specified penalty in all cases to senior executive of business unit of the market participant involved in the contravention</p>	<p>A specified penalty of \$2,500</p> <p>Notice of specified penalty in all cases to senior executive of business unit of the market participant involved in the contravention</p>	<p>A specified penalty of \$5,000</p> <p>Notice of specified penalty in all cases to senior executive of business unit of the market participant involved in the contravention</p>	<p>A specified penalty of \$10,000</p> <p>Notice of specified penalty to the most senior executive of the market participant (i.e. president, chief executive officer) or its parent company if the market participant is a wholly-owned subsidiary or affiliate or chief compliance officer, if applicable</p>