

Bulletin 2012-20

December 21, 2012

Specified penalties for Alberta Electric System Operator expedited core market ISO rules – expedited changes to AUC Rule 019

1 Background

1. On December 3, 2012, the Alberta Electric System Operator (AESO) filed an application with the Alberta Utilities Commission (AUC or the Commission) to add, amend and remove a number of ISO rules on an expedited basis (expedited ISO rules) pursuant to Section 20.6 of the *Electric Utilities Act*. The AESO characterized these ISO rule changes as expedited core market rules changes.
2. On December 6, 2012, the AUC advised the AESO of certain deficiencies in its application regarding the expedited ISO rules, and on December 7, 2012, the AESO submitted an addendum to its notice of filing to the Commission in order to address the deficiencies.¹
3. The Commission issued a notice of application regarding the expedited ISO rules on December 10, 2012. ISO rules that are filed pursuant to Section 20.6 of the *Electric Utilities Act* take effect on the latter of the day on which they are filed and the day specified in the ISO rules. The AESO indicated that the expedited ISO rules will become effective on January 8, 2013.
4. On December 14, 2012, the Market Surveillance Administrator (MSA) requested that the Commission revise AUC Rule 019: *Specified Penalties for Contravention of ISO Rules* (AUC Rule 019) on an expedited basis in order to ensure that a “continuity in the enforcement of ISO rules can be efficiently maintained.” The MSA characterized the expedited ISO rule changes made by the AESO as a reorganization of currently effective authoritative rule content. A copy of the MSA’s letter and the specific request for changes to AUC Rule 019 is attached.

2 Expedited changes to AUC Rule 019

5. The Commission has considered the request for expedited changes to the specified penalty tables of AUC Rule 019, and has determined that certain of the proposed changes that have been requested by the MSA reasonably reflect a reorganization of currently effective authoritative ISO rule content. The Commission has also determined that it is reasonable to have some degree of continuity of enforcement as requested by the MSA. Further, the Commission has determined that given the impending effective date of January 8, 2013 for the expedited ISO rules, there is not adequate time to consult with stakeholders regarding these ISO rule changes

¹ Details regarding the AESO application and addendum regarding the expedited ISO rules are contained within Application No. 1609092, and are available on the AUC website at:
https://www.auc.ab.ca/eub/dds/iar_query/ApplicationAttachments.aspx?AppNumber=1609092

and their impact on the specified penalty tables prior to having the new specified penalty tables come into effect.

6. Accordingly, the Commission has determined that it will amend the penalty tables within AUC Rule 019 as attached to this bulletin effective on January 8, 2013.

7. While there is insufficient time to receive and consider stakeholder comments in advance of making the changes noted above, the Commission invites stakeholders to comment on the attached amendments to AUC Rule 019 that will become effective on January 8, 2013. The Commission will consider these comments and make any necessary changes to the specified penalty tables as required.

3 Other changes requested by the MSA

8. The Commission notes that the MSA has also requested a number of changes to the specified penalty tables in AUC Rule 019 that are not part of the expedited core market rules changes. All of these changes take effect prior to January 8, 2013. Given the different timing of these ISO rule changes, the Commission has determined that it will consider reflecting these changes in AUC Rule 019, but only a prospective basis, and after it has the benefit of consulting with stakeholders. These changes include the following

Category	Remove	Add
1	ISO rule 1.8	ISO rule Section 201.2
1	ISO rule 3.2	ISO rule Section 201.3
1	ISO rule 6.3.8	ISO rule Section 202.5
1	OPP 603	ISO rule Section 505.3 and ISO rule Section 505.4
1	-	ISO rule Section 301.2

9. Market participants and other interested parties are invited to provide written comments regarding the expedited changes to AUC Rule 019 and the other changes requested by the MSA by email to darin.lowther@auc.ab.ca on or before **January 17, 2013 at 4 p.m.**

10. If you have any questions relating to this consultation, please direct them to AUC Director of Markets Darin Lowther at 403-592-4507 or by email to darin.lowther@auc.ab.ca.

(original signed by)

Robert D. Heggie
Chief Executive

December 14, 2012



Darin Lowther, Director - Markets
Alberta Utilities Commission
Fourth Floor, 425 First Street S.W.
Calgary, AB T2P 3L8

Dear Mr. Lowther:

RE: AUC Rule 019

In respect of pending changes to a substantial proportion of the ISO rules, in particular, Application No. 1609092 filed on an expedited basis by the Alberta Electric System Operator (AESO) for effect on January 8, 2013, the MSA requests that the Commission revise AUC rule 019 also on an expedited basis to reflect these near term changes. The MSA is of the view that rule changes contained within this application, and referenced by AESO as the “core market rules changes” can in many ways be described as a reorganization of currently effective authoritative rule content. Accordingly, the MSA believes there is a basis for expedited amendments to Rule 019 such that continuity in the enforcement of ISO rules can be efficiently maintained.

In particular, the MSA requests that the Commission make the following changes to the AUC Rule 019 Penalty Table effective on January 8, 2013, to accord with the effective date of the core market rules package:

Category 1

Replace ISO rules 3.3 and 3.4 with ISO rule section 201.4

Replace ISO rule 6.2.3, ISO OPP 003.2 and ISO OPP 102 with ISO rule section 201.7

Category 2

Replace ISO rules 3.5.2 and 3.5.3 with ISO rule sections 203.1 and 203.3

Replace ISO rule 3.5.5 with ISO rule sections 204.1 and 204.3

Replace ISO rule 6.2.2 with ISO rule section 502.4

Replace ISO rule 6.3.5 with ISO rule section 202.4

Category 3

Replace ISO rule 6.6 with ISO rule section 203.4

In the same manner, the MSA requests that the following applicable rule changes are also captured in amendments to the Rule 019 Penalty Table given that the noted ISO rules appear in the Rule 019 penalty table and either have been or will be replaced in 2012. As the Commission is aware, the fourth requested amendment below also arises from a recent expedited ISO rule filing:

Category 1

Replace ISO rule 1.8 with ISO rule section 201.2 (effective 2011-12-31)

Replace ISO rule 3.2 with ISO rule section 201.3 (effective 2012-12-03)

Replace ISO rule 6.3.8 with ISO rule section 202.5 (effective 2012-03-28)

Replace ISO OPP 603 with ISO rule sections 505.3 and 505.4 (effective 2012-12-31)

Consistent with the Commission's inclusion of other directive-related rules in the Rule 019 Penalty Table, the MSA further requests at this time that the Commission insert ISO rule section 301.2 – Directives (effective 2012-07-10), into the Penalty Table. The MSA suggests this rule would be suitably located in Category 1 of the rule 019 penalty table.

If you have any questions in relation to any of the above, please contact the undersigned at (403) 233-6497.

Yours truly,

"Original Signed"

Market Surveillance Administrator

Per: Doug Doll

Manager, Compliance



Rule 019

Specified Penalties for Contravention of ISO Rules

This rule as amended was approved by the Alberta Utilities Commission on December ~~21~~, 201~~2~~ and is effective on January ~~8~~, 201~~3~~.

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1 Application

These rules apply to the contravention of ISO rules.

2 Definitions

2.1 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*.

2.2 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.

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.

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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.

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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: 6.5.3, 9.1.2, 9.1.3, 9.1.5, 201.4, 201.7, 303.1, 502.4, OPP 003.1, 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: 3.6.2, 3.6.3, 5.2, 6.3.3, 6.4.3, 6.5.2, 202.4, 203.1, 203.3, 204.1, 204.3, 502.4</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>

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Deleted: OPP 003.2, OPP 102,

Deleted: 3.5.2, 3.5.3, 3.5.4, 3.5.5,

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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.

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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 Section 203.4.</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>

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