

Bulletin 2013-20

October 3, 2013

Consultation on AUC Rule 019: *Specified Penalties for Contravention of ISO Rules*

The Alberta Utilities Commission (AUC or Commission) is inviting comments from market participants and interested parties regarding possible amendments to AUC Rule 019: *Specified Penalties for Contravention of ISO Rules* (AUC Rule 019).

On August 26, 2013, the Market Surveillance Administrator (MSA) proposed amending the penalty tables in AUC Rule 019. Appendix 1 to this bulletin contains a copy of the MSA letter describing the proposed amendments to AUC Rule 019.

The Commission has reviewed the recommendations of the MSA which include the addition of several ISO rules to the AUC Rule 019 penalty table and an administrative change to Section 5.1. This change will allow the MSA to make public a notice of specified penalty once it has received confirmation from the Commission the specified penalty has been paid.

In addition to the changes proposed by the MSA, the Commission proposes to remove Section 6 from AUC Rule 019 regarding contraventions prior to July 1, 2008. The MSA is limited by Section 3.4 of AUC Rule 019 to issue a specified penalty a maximum of four years after the contravention. This has made Section 6 of AUC Rule 019 obsolete. The Commission has also removed the phrase “[f]or the purpose of Category 3 contraventions the count of contravention in a rolling 12-month period begins on September 1, 2009.”

The Commission further proposes to move ISO rules Section 301.2 from Category 1 into Category 3. ISO rule 6.3.3 was in Category 2 and has been replaced by ISO rules Section 203.6 which is proposed to move to Category 3. This is intended to better reflect the severity of these rules not being followed.

Appendix 2 to this bulletin contains a red-lined version of AUC Rule 019.

Market participants and interested parties who wish to comment on the proposed changes to AUC Rule 019 are requested to submit written comments on or before **4 p.m. on October 18, 2013**. Written comments should be emailed to Kevin Thompson, an analyst in the AUC’s Markets Division, at kevin.thompson@auc.ab.ca.

If you have any questions regarding this consultation, please contact Kevin at 403-592-4496 or kevin.thompson@auc.ab.ca or Darin Lowther at 403-592-4507 or darin.lowther@auc.ab.ca.

(original signed by)

Robert D. Heggie
Chief Executive

Appendix 1



August 26, 2013

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

As the Commission is aware, ISO rule section 203.6 became effective on August 13, 2013. Rule section 203.6 contains authoritative content that previously resided within ISO rule 6.3.3 which is identified in Category 2 of the rule 019 penalty tables. Since ISO rule 6.3.3 was withdrawn concurrent with the effective date of rule section 203.6, the MSA requests that Category 2 of the rule 019 penalty tables be amended by the replacement of rule 6.3.3 with ISO rule section 203.6.

At this time, the MSA also requests consideration by the Commission of the ISO rules noted below, for inclusion into the AUC rule 019 penalty tables. The MSA is of the view that these rules contain important performance requirements for which the availability of specified penalties would promote good compliance practices and as applicable, would serve as an effective and efficient means of enforcement:

- ISO rule 205.8 – Transmission Must-Run
- ISO rule 304.3 – Wind Power Ramp Up Management
- ISO rule 502.1 – Wind Technical Requirements
- ISO rule 502.8 – SCADA Technical Requirements
- ISO rule 502.9 – Phasor Measurement Unit Technical Requirements
- ISO rule 504.3 – Coordinating Energization, Commissioning and Ancillary Services Testing
- ISO rule 504.4 – Coordinating Operational Testing

A further requested amendment to rule 019 pertains to the s 5.1 requirement that the MSA shall make public any notice of specified penalty no earlier than 30 days and no later than 45 days after issuance. The MSA has observed that in many cases, notices of

specified penalty are paid prior to the end of the 30 day period from the date of issuance. For procedural efficiency, the MSA requests the ability to make public a notice of specified penalty at any time within the payment window once the MSA has received confirmation of payment from the Commission. This change would have no impact on the currently allowable payment period but would facilitate the prompt closure of matters from an administrative standpoint following confirmation of payment.

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 and Corporate Services

Appendix 2

Rule 019

Specified Penalties for Contravention of ISO Rules

This rule as amended was approved by the Alberta Utilities Commission on ~~(Month) (Day)~~, 2013 and is effective on ~~(Month) (Day)~~, 2013.

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Contents

1	Application.....	2
2	Definitions.....	2
3	Notice of specified penalty	2
4	Penalty assessment.....	3
5	Posting of notice of specified penalty	4

Penalty Table	5
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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.

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 [Section 4.3](#) must:

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- (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 [the receipt of confirmation of payment from the Commission](#) 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.

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<#>Contraventions prior to July 1, 2008¶
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For purposes of subsection 4(2), the assessment of penalties shall be from the first contravention that occurred on or after July 1, 2008.¶
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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
Category 1 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, 201.2, 201.3, 201.4, 201.7, 202.5, 303.1, 304.3, 502.1, 502.4, 502.9, 504.3, 504.4, 505.3, 505.4, OPP 403, OPP 404, OPP 601, OPP 806	A specified penalty of \$500 Notice of specified penalty to senior executive of business unit of the market participant involved in the contravention.	A specified penalty of \$1,500 Notice of specified penalty to senior executive of business unit of the market participant involved in the contravention.	A specified penalty of \$ 5,000 Notice of specified penalty to senior executive of business unit of the market participant involved in the contravention.	A specified penalty of \$10,000 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.
Category 2 Failure to comply in whole or in part with the following ISO rules: 3.6.2, 3.6.3, 5.2, 6.4.3, 6.5.2, 202.4, 203.1, 203.3, 204.1, 204.3, 205.8, 502.8	A specified penalty of \$500 Notice of specified penalty to senior executive of business unit of the market participant involved in the contravention.	A specified penalty of \$1,500 Notice of specified penalty to senior executive of business unit of the market participant involved in the contravention.	A specified penalty of \$3,000 Notice of specified penalty to senior executive of business unit of the market participant involved in the contravention.	A specified penalty of \$5,000 Notice of specified penalty to senior executive of business unit of the market participant involved in the contravention.

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Penalty Table (contd.)

Category 3

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 Failure to comply in whole or in part with the following ISO rules: 203.4, <u>203.6</u>, <u>301.2</u>,</p>	<p>A specified penalty of \$1,500 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 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 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 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>

Deleted: 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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