

Bulletin 2020-32

October 21, 2020

Amendments to AUC Rule 027

Effective immediately, Rule 027: *Specified Penalties for Contravention of Reliability Standards* is amended with the addition of the following clause 5.3:

5 Posting of notice of specified penalty

[...]

5.3 Subsections 5.1 and 5.2 shall not apply to a notice of specified penalty issued for a contravention of a critical infrastructure protection (CIP) reliability standard. A notice of specified penalty issued for a contravention of a CIP reliability standard and all associated information, including nonpayment or a dispute of the specified penalty or a Commission decision respecting the disputed specified penalty, will not be public.

The Commission initiated a review of Rule 027 with the issuance of Bulletin 2020-03: *Stakeholder comments sought on suggested changes to AUC Rule 027*, on January 31, 2020. In that bulletin, it was stated:

A related discussion item raised by the MSA concerned the publication of contraventions of Critical Infrastructure Protection reliability standards. Currently, the Federal Energy Regulatory Commission (FERC) is seeking public comment on a white paper jointly prepared by its staff and staff from the NERC [North American Electric Reliability Corporation] regarding this same matter. The Commission will defer its consultation on this until the FERC issues its findings.

The current version of Rule 027 requires the MSA to publish every notice of specified penalty issued for contraventions of reliability standards, including those related to critical infrastructure protection (CIP). CIP reliability standards impose certain physical and cyber security requirements on Alberta generating units. The rule also requires the MSA to post whether penalties have been paid or whether a notice of specified penalty is disputed and, in the latter case, to post a link to the resulting Commission decision relating to that dispute.

The FERC released its *Joint Staff White Paper on Notices of Penalty Pertaining to Violations of Critical Infrastructure Protective Reliability Standards* (White Paper) on September 23, 2020. FERC and NERC staff jointly concluded “there are substantial risks to the security of the Bulk-Power System resulting from the disclosure of CIP violator names and other information found in CIP noncompliance submissions.” Consequently, the FERC will be keeping confidential all information related to the investigation and enforcement of contraventions of critical infrastructure protective reliability standards and NERC will no longer publicly post redacted versions of CIP noncompliance filings and submittals.

The Commission reviewed the findings of the White Paper and will adopt the joint FERC and NERC position regarding confidentiality. Rule 027 is revised to exempt the MSA from making public any notices of specified penalties related to contraventions of critical infrastructure protective reliability standards including any related documentation.

In the past, the Commission invited comments from market participants and interested parties regarding possible amendments to Rule 027. However, the Commission has determined that this change to Rule 027 did not necessitate a consultative process.

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