

June 12, 2009

Delivered via e-mail to: Michael_macphee@nexeninc.com

Nexen Inc.
801 – 7th Avenue SW
Calgary, Alberta
T2P 3P7

Attention: Mr. Michael MacPhee, General Manager Power Marketing

Dear Mr. McPhee:

**Re: MSA File # 2009-029
Contravention of ISO rule 6.6 – Notice of Specified Penalty
NX02 – February 25, 2009**

As you will be aware, your organization is a market participant governed by the ISO rules established by the Alberta Electric System Operator (AESO).

The Market Surveillance Administrator (MSA) is granted the power and authority under s. 52 of the *Alberta Utilities Commission Act* (Act) to issue a notice of specified penalty where the MSA is satisfied that a person has contravened an ISO rule. The range of specified penalties is set out in Rule 019 of the Alberta Utilities Commission (AUC).

In accordance with the relevant enactments and rules, the MSA is hereby issuing to your organization a notice of specified penalty for non-compliance by Nexen Long Lake (NX02) with ISO rule 6.6. A summary of other relevant particulars is set out below, for your information.

Event

On February 25, 2009 the NX02 asset was found to be in non-compliance with its dispatch level for a period beginning at approximately 11:24 and ending at approximately 12:51 at variances of up to 145 MW. While dispatched to provide 150 MW to the AIES, the NX02 asset tripped offline however, the change in operating status of the NX02 asset was not communicated by Nexen to the AESO as soon as practical in accordance with ISO rule 6.6. Consequently, the NX02 asset was considered to be in non-compliance with its dispatch for a period of approximately 87 minutes.

Process

The AESO referred this event to the MSA on May 8, 2009 as a suspected contravention of ISO rules 6.6 and 3.5.3.2, and your organization was notified accordingly. As part of its compliance monitoring, the AESO obtained information regarding the event and provided an opportunity for your organization to bring forward information it considered relevant to the matters at issue. Information obtained by the AESO was provided to the MSA for use in respect of its mandate. Further, in accordance with the MSA Investigation Procedures, your organization was afforded an opportunity to provide additional information to the MSA upon referral from the AESO, if you so chose.

Findings

Based upon the information obtained by the MSA, the MSA is satisfied that the event was a contravention of ISO rule 6.6. In this case, the MSA is not pursuing a separate penalty in respect of ISO rule 3.5.3.2.

In this regard, the material facts which were relied upon by the MSA include the following:

1. AESO Available Capability (AC) and dispatch data for the NX02 asset on February 25, 2009.
2. AESO Information Request to Nexen dated March 24, 2009
3. Nexen April 8, 2009 response to AESO information request.
4. AESO letter to Nexen dated May 8, 2009 notifying the referral of the matter to the MSA
5. Supplemental information provided by Nexen to the MSA in two e-mail communications dated June 4, 2009 and June 5, 2009.

Specified Penalty

AUC rule 019 and the Category 3 Penalty Table therein prescribes the applicable financial penalty based on the duration and magnitude of a dispatch variance. For the purposes of this calculation and taking into account factors such as ramp period, the MSA has deemed that the contravention persisted for at least 45 minutes in duration at a dispatch variance exceeding 50 MW. The MSA notes that the contravention was not self-reported by your organization, and therefore an adjustment to the specified penalty cannot be made on that basis.

For these reasons, and in accordance with AUC Rule 019, the MSA has determined that a total specified penalty in the amount of \$10,000.00 is appropriate for this specific contravention of ISO rule 6.6.

Specified Penalty Due Date

The penalty is due and payable not later than July 14, 2009.

Delivery of Payment

Payment by cheque or certified funds is to be made out to the "General Revenue Fund c/o Minister of Finance", and delivered to the Alberta Utilities Commission at: 4th Floor, 425 - 1st Street S.W., Calgary, Alberta, T2P 3L8. Questions in respect of delivery of payment should be addressed to the Director of Finance, AUC. The payment should reference this notice and related MSA File # (see first page of notice). Delivery of payment should also be confirmed in

writing or by email to Doug Doll, the MSA contact person noted below with copy to the following AUC personnel: Jodi Chaulk, Sabi Ghavami (Director, Finance), and Darin Lowther (Director, Market Rules).

Failure to Pay Specified Penalty

Failure to pay the specified penalty in accordance with this notice will result in a hearing or other proceeding before the AUC.

Dispute re Notice of Specified Penalty

If your organization disputes the issuance of this notice of specified penalty, or if you have any other questions or comments regarding this matter, please contact Doug Doll, Senior Analyst, MSA, at (403) 233-6497 or doug.doll@albertamsa.ca.

In accordance with the relevant enactments and rules, a dispute regarding the issuance of a notice of specified penalty will be addressed by an AUC hearing or other proceeding.

Notice of Specified Penalty Public

In accordance with s. 5(2) and s. 6(3) of AUC Rule 019, the MSA will make public this notice of specified penalty on the basis that this event constitutes the third contravention of ISO rule 6.6 within the period since July 1, 2008. In all cases where a market participant has failed to pay the specified penalty or disputes the notice of specified penalty, the MSA will make public on its website the notice of specified penalty and the fact of non-payment/dispute. The MSA will also post on its website the link to any decision of the AUC respecting the specified penalty.

The MSA is committed to working with your organization and other market participants on compliance related matters, including re: the ISO rules. For further information regarding the monitoring, investigation and enforcement of ISO rules, we would refer you to the *MSA Investigation Procedures* (particularly Appendix A therein), found on the MSA website under *Processes*.

Yours truly,
Market Surveillance Administrator

“Original Signed”

Per: Matt Ayres
Chief Economist

Cc: Jodi Chaulk – AUC
Darin Lowther – AUC
Sabi Ghavami – AUC
Ed Hucman - Nexen