

October 8, 2009

Delivered via e-mail to: teresa.conway@powerex.com

Powerex Corp.
1400, 666 Burrard Street
Vancouver, B.C.
V6C 2X8

Attention: Teresa Conway, President and Chief Executive Officer

Dear Ms. Conway:

**Re: MSA File # 2009-072
Contravention of ISO rule 6.3.3 – Notice of Specified Penalty
PWSK – April 18, 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 the PWSK asset with ISO rule 6.3.3. A summary of other relevant particulars is set out below, for your information.

Event

On April 17, 2009 an offer restatement was submitted for Powerex Corp. import (PWSK) asset at 22:44 which increased the available capability (AC) for the asset within the T-2 window for April 18, 2009 HE 1. This restatement had the effect of increasing the AC value from 0 to 30 MW for HE 1. ISO rule 6.3.3 requires that for an importer (exporter), the sum of the e-tag quantities (MW) cannot be greater than the available capability stated two hours before the start of the settlement interval. While the ability to procure transmission is an acceptable operational reason for reducing the megawatts stated in an import offer (export bid) within T-2, there is no allowance within the rules for increasing the megawatts of an import offer (export bid) inside of T-2 unless it is to restore megawatts previously reduced in T-2 due to a transmission constraint.

Process

The AESO referred this event to the MSA on June 25, 2009 as a suspected contravention of ISO rule 6.3.3 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 6.3.3.

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

1. AESO restatement data for the PWSK asset for April 18, 2009.
2. AESO Information Request to Powerex Corp. dated June 8, 2009
3. Powerex Corp. June 22, 2009 response to AESO information request.
4. AESO letter to Powerex Corp dated June 25, 2009 notifying the referral of the matter to the MSA.
5. Powerex Corp. October 5, 2009 response to the MSA's October 1, 2009 email request for any further information or mitigating circumstances.

Specified Penalty

The MSA understands that this event constitutes the second contravention of ISO rule 6.3.3 by this asset in a rolling 12 month period prior to the date of this event. The MSA notes that this 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 \$1000.00 is appropriate for this specific contravention of ISO rule 6.3.3.

Specified Penalty Due Date

The penalty is due and payable to the AUC not later than November 9, 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: 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(1) of AUC Rule 019 this notice of specified penalty will be made public 30 days after issuance. The MSA will, if applicable, 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: Jeff Lam - Powerex
Darin Lowther – AUC
Sabi Ghavami – AUC