

December 14, 2009

*Delivered via e-mail to: [Marvin.Romanow@nexeninc.com](mailto:Marvin.Romanow@nexeninc.com); [randall.eresman@encana.com](mailto:randall.eresman@encana.com)*

Nexen Inc.  
801 – 7<sup>th</sup> Avenue SW  
Calgary, Alberta  
T2P 3P7

Encana Corporation  
1800, 855 – 2<sup>nd</sup> St. SW  
Calgary, Alberta  
T2P 2S5

**Attention: Mr. Marvin Romanow, President & CEO, Nexen Inc.**  
**Mr. Randy Eresman, President & CEO, Encana Corporation**

Dear Sirs:

**Re: MSA File # 2009-078**  
**Contravention of ISO rule 3.5.5 – Notice of Specified Penalty**  
**NX01 – June 12, 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). Specifically, both Nexen Inc. and Encana Corporation are registered with the AESO as the pool participant in respect of the Nexen Inc #1 (NX01) generation asset.

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 organizations a notice of specified penalty for non-compliance by the NX01 asset with ISO rule 3.5.5. A summary of other relevant particulars is set out below, for your information.

Event

On June 12, 2009 offer restatements were submitted for the Nexen Inc #1 (NX01) asset at 23:31 and 23:35 for HE 1 and HE 2 respectively. These restatements decreased the DDS offers from 65 MW to 56 MW (HE1) and from 65 MW to 58 MW (HE2) for the asset within the T-2 window for June 12, 2009. ISO rule 3.5.5.2 requires that the submission of a DDS energy restatement with impact on the current settlement interval or a settlement interval commencing within 2 hours of the submission must be for an “acceptable operational reason”.

### Process

The AESO referred this event to the MSA on September 28, 2009 as a suspected contravention of ISO rule 3.5.5 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 3.5.5.

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

1. AESO restatement data for the NX01 asset for June 12, 2009.
2. AESO Information Request to Nexen Inc. and Encana Corp. dated August 19, 2009.
3. Nexen Inc. September 24, 2009 response to AESO information request.
4. AESO letter to Nexen Inc. and Encana Corp. dated September 28, 2009 notifying the referral of the matter to the MSA.

### Specified Penalty

The MSA understands that this event constitutes the fourth contravention of ISO rule 3.5.5 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 \$2000.00 is appropriate for this specific contravention of ISO rule 3.5.5.

### Specified Penalty Due Date

The penalty is due and payable to the AUC not later than January 13, 2010.

### 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: Cora Anderson, 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](mailto: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: Francis Saville Q.C – c/o Holly Wennerstrom, Board Executive Assistant – Nexen  
David P. O’Brien – c/o Marilynn Prentice, Board Executive Assistant - Encana  
Susan Schulli – Nexen  
Ed Hucman - Nexan  
Rod Crockford - Encana  
Cora Anderson – AUC  
Darin Lowther – AUC  
Sabi Ghavami – AUC