

MSA ENFORCEMENT STATEMENT:
ECONOMIC WITHHOLDING

June 29, 2020

PURPOSE

This Enforcement Statement sets out the Market Surveillance Administrator's (MSA) enforcement approach to "economic withholding" in the Alberta electricity market.

MANDATE OF THE MSA

As set out in section 39(1) of the *Alberta Utilities Commission Act*, without limitation:

"the Market Surveillance Administrator has the mandate

- (a) to investigate matters...and to undertake activities to address
 - (i) contraventions of the *Electric Utilities Act*, the regulations under that Act, the ISO rules...or of decisions, orders or rules of the Commission,
 - (ii) conduct that does not support the fair, efficient and openly competitive operation of the electricity market..., and
 - (iii) any other matters that relate to or affect the structure and performance of the electricity market..."

DEFINITION OF "ECONOMIC WITHHOLDING"

The MSA defines economic withholding by a market participant as:

Economic withholding by a market participant is an offer strategy in which available capacity is offered to the power pool at a price sufficiently in excess of its short-run marginal cost and opportunity cost such that it is not dispatched and the pool price is raised as a result.

ENFORCEMENT APPROACH

The MSA believes that in an energy-only electricity market, the pool price must sometimes exceed short-run marginal cost, if the cost of generation capacity is to be recovered from the market. Market efficiency does not require that the pool price equal short-run marginal cost in each settlement interval.

The MSA does not regard economic withholding by a market participant as conduct that, in and of itself, creates, maintains, or enhances market power. Specifically, the MSA is of the opinion that economic withholding by a market participant, in and of itself:

- does not constitute a contravention of the *Electric Utilities Act*, the regulations under that Act, the ISO rules...or of decisions, orders or rules of the Alberta Utilities Commission,
- does not qualify as “conduct that does not support the fair, efficient and openly competitive operation of the electricity market,” where “conduct that does not support the fair, efficient, and openly competitive operation of the electricity market” is enumerated, without limitation, in section 2 of the *Fair, Efficient and Open Competition Regulation*, and
- does not adversely “affect the structure and performance of the electricity market.”

Based on this approach, the MSA will not investigate or take enforcement action against economic withholding by a market participant unless it has reason to believe that it is combined with conduct that does not support the fair, efficient, and openly competitive operation of the electricity market.

Within the parameters of the applicable facts and absent any superseding Enforcement Statement, the MSA considers itself committed to the enforcement approach in this Enforcement Statement. The opinion expressed by the MSA in this Enforcement Statement does not supplant the role and authority of the courts, the Alberta Utilities Commission, or other adjudicative bodies with jurisdiction over a given matter.