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March 31, 2015

**VIA ELECTRONIC FILING**

The Honorable Kimberly Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

RE: MATL LLP, Docket No. ER15-\_\_\_\_-000  
Informational Filing to Implement a Distribution Mechanism for  
Operational Penalties

Dear Secretary Bose:

Pursuant to section 206 of the Federal Power Act,<sup>1</sup> Order No. 890 of the Federal Energy Regulatory Commission's ("Commission") regulations,<sup>2</sup> and 18 C.F.R. Part 35 (2014), MATL LLP ("MATL") hereby submits for filing operation penalty distribution methodologies. In addition, MATL submits its informational filing regarding Operational Penalty Assessments and Distributions. MATL requests an effective date of March 31, 2015, the date of the filing, subject to refund, for the operational penalty distribution methodologies described herein.

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<sup>1</sup> 16 U.S.C. § 824e.

<sup>2</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241 (2007) ("Order No. 890"), *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007) ("Order No. 890-A"), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

## I. CORRESPONDENCE AND COMMUNICATIONS

Correspondence and communications with respect to this filing should be sent to the following persons, who shall also be authorized to receive notice in this docket:

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## II. DOCUMENTS SUBMITTED

MATL respectfully tenders for filing an electronic copy of the following documents:

1. This Transmittal Letter,
2. Attachment A – Penalty Assessment and Distribution
3. A certificate of service.

## III. DESCRIPTION OF FILING

### A. Order No. 890 Compliance

In Order No. 890, the Commission reformed the *pro forma* Open Access Transmission Tariff (OATT) to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. Among other things, Order No. 890 amended the *pro forma* OATT to require greater

consistency and transparency in the calculation of available transfer capability, open and coordinated planning of transmission systems and standardization of charges for generator and energy imbalance services. The Commission also revised various policies governing network resources, rollover rights and reassignments of transmission capacity. In addition to the issues mentioned above, Order No. 890 dealt with the penalty rate for unreserved use of transmission service, distribution of operational penalties, and required annual filings providing information on the penalty revenue received and distributed.

In Order No. 890, the Commission determined that transmission customers would be subject to unreserved use penalties in any circumstance where the transmission customer uses transmission service that it has not reserved and the transmission provider has a Commission-approved unreserved use penalty rate explicitly stated in its OATT.<sup>3</sup> For transmission providers, the Commission required: (i) a tariff filing under FPA section 205 stating the applicable unreserved use penalty rate in order to impose such a penalty,<sup>4</sup> (ii) a one-time compliance filing under FPA section 206 proposing the transmission provider's methodology for distributing revenues from late study penalties and unreserved use penalties,<sup>5</sup> and (iii) an annual compliance report on its penalty assessments and distributions.<sup>6</sup> The Commission further stated that the one-time compliance filing, which need not be in the transmission provider's tariff, can be submitted at any time prior to the first distribution of penalties.<sup>7</sup>

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<sup>3</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 834, 848.

<sup>4</sup> See *MATL LLP*, 143 FERC ¶ 61,296 at P 33 (2013) (June 28, 2013 Order) approving MATL's unreserved use penalty rate contained in Section 3.3 of Schedule 7 of the MATL OATT.

<sup>5</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 472.

<sup>6</sup> *Id.* P 472.

<sup>7</sup> *Id.* See *Florida Power & Light Co.*, 122 FERC ¶ 61,079, at P 25 (2008) stating Order Nos. 890 and 890-A did not require that the methodology pertaining to informational filing be included in the Tariff. See also, *Portland General Electric*, 122 FERC ¶ 61,226 at n.27, stating

MATL, and its affiliate, Montana Alberta Tie Ltd., developed, built, and now operates a 214-mile, 230 kV alternating current transmission line extending from Lethbridge, Alberta, Canada to Great Falls, Montana (the “MATL Line”). MATL connects remote renewable resources to market, diversifies the sources of energy imports to Alberta from Montana, and delivers reliability benefits.<sup>8</sup> As a merchant transmission provider that does not offer network service, does not serve end-users, and has no affiliates that take service on the line, the Commission has previously accepted MATL’s exclusion from certain *pro forma* OATT requirements including network service, ancillary services and generator imbalances.<sup>9</sup> In April 2013, MATL submitted a proposal for an unreserved use penalty provision to be applied when a transmission customer’s use of the MATL Line during any hour exceeds the amount of the customer’s reserved capacity.<sup>10</sup> The proposal applied a penalty of two-hundred percent (200%) of the applicable Schedule 7 rate, based on a sliding scale for a transmission customer’s use of the MATL Line during any hour that exceeds the amount of the customer’s reserved

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that the Commission has stated that “the methodology for distributing imbalance penalties need not be stated in the transmission provider’s OATT.”

<sup>8</sup> Alberta Electric System Operator, *2014 Annual Market Statistics* (February 2015) available at [http://www.aeso.ca/downloads/2014\\_Annual\\_Market\\_Stats\\_WEB.pdf](http://www.aeso.ca/downloads/2014_Annual_Market_Stats_WEB.pdf), pg. 18. See *Powering Alberta*, “Montana-Alberta tie line now fully operational,” (September 18, 2013) available at <http://poweringalberta.com/2013/09/18/montana-alberta-tie-line-now-fully-operational/>.

<sup>9</sup> See *MATL LLP* 121 FERC ¶ 61,094 at P 18, 19 (2007) (October 26, 2007 Order); *Montana Alberta Tie, Ltd.*, 116 FERC ¶ 61,071 (2006); *Montana Alberta Tie, Ltd.*, 119 FERC ¶ 61,216 (2007).

<sup>10</sup> See MATL Filing, Docket No. ER13-1370, at 6-8 (filed April 30, 2013) proposing the Section 3.3 of Schedule 7 of the MATL OATT. The MATL proposal was in response to a prior Commission directive that MATL could not charge transmission customers for unreserved use penalties (October 26, 2007 Order, 121 FERC ¶ 61,094 at P 31). In previous filings associated with the October 26, 2007 Order (July 13, 2007, and August 28, 2007 filings in Docket No. OA07-74), MATL had addressed Order No. 890 tariff requirements, but did not include an unreserved use penalty rate.

capacity. On June 28, 2013, the Commission approved the proposed tariff revision.<sup>11</sup>

## **B. Penalty Distribution Methodology**

### **1. Unreserved Use Penalty Methodology**

In early 2015, MATL had a transmission customer use the MATL Line's transmission capacity without a reservation. MATL is in the process of assessing and collecting the penalty, pursuant to MATL OATT section 3.3. Now, as the Commission directed in Order No. 890 and 890-A, "transmission providers must distribute all unreserved use and late penalties they collect, whether from the transmission provider's merchant function or other transmission customers."<sup>12</sup> As permitted by the Commission, MATL will "retain the base firm point-to-point transmission service charge ... distribute any revenue collected above the base firm point-to-point transmission service charge to all non-offending customers."<sup>13</sup>

With respect to the proposed methodology, MATL proposes to credit each non-offending customer four-times per year on the transmission customer's monthly invoice.<sup>14</sup> To facilitate this approach, MATL proposes to describe its methodology in an addition to its business practice document.<sup>15</sup> MATL will make a pro-rata distribution of

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<sup>11</sup> *MATL LLP*, 143 FERC ¶ 61,296 at P 33 (2013) *citing PacifiCorp*, 121 FERC ¶ 61,223, at P 39 (2007), the Commission approved without modification, noting a similarity to other penalty provisions approved in the past.

<sup>12</sup> Order No. 890-A at P 464.

<sup>13</sup> *Id.* P 466.

<sup>14</sup> April invoice for first quarter, July invoice for second quarter, and so on.

<sup>15</sup> In addition to the methodology related business practice changes reflected in the instant filing and on the MATL OASIS, MATL will concurrently be making business practice changes related to other topics. Procedures for changes in the MATL Transmission Service Business Practices are outlined in Section 1.3 of the document.

penalty revenues to transmission customers based on the non-offending transmission customers' quarterly usage within the quarter in which the penalty assessment occurred. Each transmission customer is entitled to apply the credits it receives for unreserved use penalties solely to short-term service it takes from MATL.<sup>16</sup> MATL requires credits to be applied to short-term service as they are the sole volume-dependent service offered on the MATL Line. All customers with the exception of the penalized customer are eligible for the credit distribution. All customers will begin each quarter eligible for a penalty distribution.

Specifically, MATL will identify and assess unreserved use penalties "based on actual usage or delivery of energy over the MATL line."<sup>17</sup> MATL will calculate the sum of all unreserved use penalties assessed to transmission customers during each month of the quarter, subsequently summed for the quarter. Next, MATL will determine the sum of all transmission customers' revenue from non-offending transmission customers during that quarter. For each quarter, each transmission customer that was not assessed unreserved use penalties in that quarter will receive a penalty credit equal to the product of the total unreserved used penalties assessed in the quarter multiplied by the transmission customer's pro-rata share of the transportation revenues (derived by dividing the amount of transmission revenue from each transmission customer during that quarter by the total revenues from all non-offending transmission customers in the quarter).

As stated herein, MATL will publish its proposed methodology on OASIS as part of its Transmission Service Business Practices. For the Commission's convenience,

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<sup>16</sup> All customers, long-term customers with TSR commitments or short-term transmission customers, may either ship on a short-term basis or are affiliated with an entity that has short-term scheduling rights.

<sup>17</sup> See MATL Answer, Docket No. ER13-1370 at page 3 (filed June 6, 2013).

MATL is attaching an excerpt of the new section regarding its Unreserved Use Penalty Methodology to this filing as Attachment A.

## **2. Late Study Penalty Methodology**

As previously described, for late study penalties, a transmission provider is required to submit a one-time compliance filing under FPA section 206 to propose a methodology for distributing revenues from late study penalties. With respect to the proposed methodology for late study penalties, MATL proposes to credit each non-affiliated customer four-times per year on the transmission customer's monthly invoice at the end of each quarter on a pro-rata basis of each transmission customer's quarterly usage within the quarter in which the penalty assessment occurred.<sup>18</sup> To facilitate this approach, MATL proposes to describe its methodology in an addition to its business practice document. Non-affiliated transmission customers are entitled to apply the credits received for late study penalties solely to short-term transmission service it takes from the transmission provider. All customers with the exception of the penalized customer are eligible for the credit distribution.

For each quarter, late study penalties for each transmission customer, pursuant to Section 19.9 of the MATL OATT, will be determined by MATL as follows: (1) the sum of all late study penalties assessed during the quarter, and (2) the sum of all transmission revenue from transmission customers that are not affiliated with the transmission provider during that quarter. For each quarter, each transmission customer that was not affiliated with the transmission provider will receive a credit equal to the product of (i) late study penalty revenue multiplied by (ii) a fraction, derived from dividing the amount

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<sup>18</sup> As stated elsewhere in the filing, at this time MATL has no affiliated customers that take service on the MATL Line.

of transmission revenue from that transmission customer during that quarter and a denominator equal to transmission revenue from transmission customers not affiliated with the transmission provider in the quarter.

As stated herein, MATL will publish its proposed methodology on OASIS as part of its Transmission Service Business Practices. Also included in Attachment A, MATL is attaching an excerpt of the new section regarding its Late Study Penalty Methodology for the Commission's convenience.

### **C. Penalty Report**

Order No. 890 calls for the following information to be submitted in an annual informational filing: (1) a summary of revenue credits by transmission customer; (2) total penalty revenues collected from affiliates; (3) total penalty revenues collected from non-affiliates; (4) a description of the costs incurred as a result of the offending behavior; and (5) a summary of the portion of unreserved use penalty retained by the transmission provider.

MATL hereby submits that it did not assess or distribute any operational penalties for late studies or unreserved use for 2013 and 2014.<sup>19</sup> Additionally, as required by Order No. 890:

- (1) MATL provided no such penalty revenue credits to any customer in 2013 and 2014;

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<sup>19</sup> As described further below, MATL collected no operational penalties and had no methodology on file for distribution; therefore no report was filed in 2014 for operational penalties collected in 2013. MATL entered commercial operation in September 2013. Between that date and December 31, 2013, MATL neither assessed, nor collected operational penalties. Likewise, for the year of 2014, MATL did not assess or collect operational penalties.

- (2) MATL collected no such penalty revenues from any affiliates in 2013 and 2014;<sup>20</sup>
- (3) MATL collected no such penalty revenues from any non-affiliates in 2013 and 2014;
- (4) MATL calculated no additional costs incurred for either 2013 or 2014 as a result of such offending behavior; and
- (5) MATL has retained no revenues collected from unreserved use penalties in 2013 or 2014.

#### **IV. SERVICE**

MATL will post a copy of this filing on its OASIS.

#### **V. EFFECTIVE DATE AND WAIVER**

MATL requests an effective date of March 31, 2015 for this filing, which is the date of the submission of this filing to the Commission.<sup>21</sup> MATL requests that the Commission accept the proposed revisions to the business practice to become effective as of the date of this filing. MATL intends to commence distribution of the penalty revenues in the manner consistent with the business practice revision proposed herein,

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<sup>20</sup> As stated elsewhere in the filing, at this time MATL has no affiliated customers that take service on the MATL Line.

<sup>21</sup> Order No. 890-A at P 472. In Order 890-A, the Commission affirmed that transmission providers should request an effective date for any distribution mechanism to be coincident to the date of the distribution mechanism's filing. The Commission also provided that a transmission provider who has made such filing may implement the methodology immediately, subject to refund.

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and upon the date submitted and subject to refund, in accordance with the Commission's directives in Order No. 890-A.

## **VI. CONCLUSION**

For the reasons set forth above, MATL respectfully requests that the Commission accept its Compliance Filing submitted herewith.

Sincerely,

/s/ Stacy Myers

Stacy Myers  
Senior Legal Counsel, Green Power,  
Transmission, and Emerging Technology  
Enbridge Energy Company, Inc.  
1100 Louisiana St., Suite 3300  
Houston, TX 77002

Enclosures

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day caused the foregoing document to be served upon each of the parties listed on the official service list compiled by the Secretary for this proceeding.

Dated at Houston, Texas, this 31st day of March, 2015.

/s/ Stacy Myers

Stacy Myers  
Senior Legal Counsel, Green Power, Transmission, and  
Emerging Technology  
Enbridge Energy Company, Inc.  
1100 Louisiana St., Suite 3300  
Houston, TX 77002

Dated: March 31, 2015

**Attachment A**

**Section 12.2, Penalty Assessment and Distribution**

**Montana Alberta Tie Line (MATL)**

**Transmission Service Business Practices, Version 3.0**

## **12.2 Penalty Revenue Assessment and Distribution:**

For the purpose of this section all credits distributed may only be applied to invoices for short-term transmission service under the terms of Attachment B of the MATL OATT (“Short-Term Transmission Service Customers”). The Transmission Provider will credit a Transmission Customer taking service under Part II of this Tariff for its share of penalty revenues as follows:

### **12.2.1. Late Study Penalties**

Penalties paid by the Transmission Provider pursuant to Section 19.9 of this Tariff are referred to as “Late Study Penalties,” and therefore subject to distribution to all Transmission Customers that are not affiliated with the Transmission Provider. On the month following the end of each calendar quarter, each Transmission Customer that is not affiliated with the Transmission Provider shall receive on its monthly invoice a credit for its share of the Late Study Penalties that were assessed during the applicable calendar quarter. The Transmission Customer’s share of the Late Study Penalties (if any) will be determined as follows:

For each quarter, the Transmission Provider will determine: (1) the sum of all Late Study Penalties assessed during the quarter, measured in dollars (LSRq), and (2) the sum of all transmission revenue from Transmission Customers that are not affiliated with the Transmission Provider during that quarter, measured in dollars (LSTRq). Where:

LSRq = Late Study Penalty Revenue in the quarter

LSTRq = Transmission Revenue from Transmission Customers not affiliated with the Transmission Provider in the quarter

For each quarter, each Transmission Customer that was not affiliated with the Transmission Provider will receive a credit equal to the product of (i) LSRq multiplied by (ii) a fraction, derived from dividing the amount of transmission revenue from that Transmission Customer (TC1) during that quarter (measured in dollars), where TC1 is equal to one Transmission Customer, and a denominator equal to LSTRq.

The non-affiliated Transmission Customer is entitled to apply the credits it receives pursuant to this Section for Late Study Penalties solely to Short-Term Transmission Service it takes from the Transmission Provider.

### **12.2.2. Unreserved Use Penalties**

Charges assessed by the Transmission Provider pursuant to Section 3.3 of Schedule 7 of this Tariff that are in excess of the Transmission Provider's transmission service rates on file at the time of the unreserved use are referred to as "Unreserved Use Penalties," and therefore subject to distribution to all "non-offending" (or non-penalized) Transmission Customers. On the month following the end of each calendar quarter, each non-offending Transmission Customer shall receive on its monthly invoice a credit for its share of the Unreserved Use Penalties that were assessed in connection with service rendered by the Transmission Provider during the applicable calendar quarter. The Transmission Customer's share of the Unreserved Use Penalties (if any) will be determined as follows:

12.2.2.1 For each month in the applicable quarter, the Transmission Provider will determine the sum of all Unreserved Use Penalties assessed to Transmission Customers during each month of the quarter (UURm), measured in dollars. For each quarter, the Transmission Provider will determine the sum of all Unreserved Use Penalties assessed to Transmission Customers during that quarter (UURq), measured in dollars. For each month and for the applicable quarter, the Transmission Provider will determine the sum of all Transmission Customers revenue from non-offending Transmission Customers during that quarter, measured in dollars (TRq). Where:

UURm = Unreserved Use Penalty Revenue each month of the quarter

UURq = Unreserved Use Penalty Revenue in the quarter

$UURq = UURm (N1) + UURm (N2) + UURm (N3)$

TRq = Transmission Customer Revenue from all non-offending  
Transmission Customers in the quarter

12.2.2.2 For each quarter, each Transmission Customer that was not assessed Unreserved Use Penalties during the three months in that quarter will receive a credit equal to the product of (i) UURq multiplied by (ii) a fraction, derived from dividing the amount of transmission revenue from that Transmission Customer (TC1) during that quarter (measured in dollars), where TC1 is equal to one non-offending Transmission Customer, and a denominator equal to TRq.

12.2.2.3 The Transmission Customer is entitled to apply the credits it receives pursuant to this Section for Unreserved Use Penalties solely to Short-Term service it takes from the Transmission Provider.