

Watchdog seeks ban against energy traders

Two identified in TransAlta probe

Darcy Henton, Postmedia News **Edmonton Journal**

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Alberta's electricity market watchdog is seeking to ban a former and a current TransAlta employee from energy trading after a 32-month investigation in alleged manipulation of power prices by the province's largest utility.

The Market Surveillance Administrator (MSA) says in a document filed with the provincial regulator that traders Scott Connelly and Nathan Kaiser participated in a strategy by TransAlta to boost power prices and profits by orchestrating discretionary power plant shutdowns during periods of peak demand.

Connelly, head trader at Trans-Alta from August 2010 until May 2012, was responsible for overseeing trades in the energy markets in Western Canada and the western United States, according to documents filed before the Alberta Utilities Commission (AUC) last week.

Kaiser was employed by Trans-Alta in its asset optimization group and still works for the utility.

"Mr. Connelly executed trades on behalf of TransAlta as instructed by Mr. Kaiser and also executed other trades on TransAlta's behalf on his own initiative while in possession of non-public outage records communicated to him by Mr. Kaiser," the MSA alleges.

The watchdog is seeking to have both officials prohibited from managing, directing or engaging in Alberta energy trading for three years. Both have denied any wrongdoing and filed complaints against the MSA seeking to have the probe stopped.

Connelly has faced similar allegations in the past.

Last year, he was fined \$15 million for allegedly manipulating electricity prices in the United States. Connelly, Barclays Bank PLC, and three traders who worked with Connelly at the bank, were ordered last July by the U.S. Federal Energy Regulating Commission (FERC) to pay a total of \$453 million in civil penalties for allegedly manipulating prices in California and other Western U.S. markets between 2006 and 2008.

Barclays, Connelly and the other traders are appealing the civil penalty, contending the trading was legitimate. Connelly's U.S. lawyer declined to comment on Friday.

In a written response to the allegations in Alberta, Connelly states he is not a "market participant" and the MSA has no jurisdiction over his conduct at TransAlta.

Connelly couldn't be reached for comment, but his Canadian lawyer issued a statement to the Calgary Herald telling Albertans to be "very concerned" about the conduct of the MSA, noting the agency "is very new and inexperienced."

"Not only has it breached its own investigation protocols, it has acted, in relation to Mr. Connelly, in a way that offends the most basic notions of fair play," said Toronto lawyer Eric Hoaken.

"Mr. Connelly was justifiably concerned by both the procedural irregularities and what appears to be the MSA's improper motivation in including him, at the 11th hour and without notice to him, in its investigation."

Hoaken said that when Connelly learned about the MSA investigation in November, he wrote to the watchdog. When he received no reply, he filed a complaint against the MSA.

"Four days after he filed his complaint, the MSA retaliated by filing baseless charges against him," Hoaken said. "Not only will those charges be vigorously contested, Mr. Connelly is determined to pursue his complaint about the MSA to the fullest extent possible to ensure that others in his position cannot be exposed to baseless and unfair proceedings initiated by the MSA." Kaiser's Calgary lawyer, Steven Leitt, told the Herald on Friday that his client has "absolutely, squarely and 100 per cent" denied the allegations levelled against him by the MSA and that he has raised concerns about the MSA's conduct. "The concern is ... the MSA has made the allegations against the employees simply to lever its position (against) TransAlta," Leitt said. "This three-year ban could seriously jeopardize their ability to make a living."

He said Kaiser denies the allegation he had confidential information on when the plants would be shut down and that he instructed Connelly to make some forward trades of electricity.

"They don't even allege that he passed on any information to Mr. Connelly," Leitt said. "And what's even more amazing is they never even interviewed Mr. Connelly. They've never met him ... They didn't think it was necessary."

MSA president Harry Chandler said he can't talk about the case while the matter is before the commission for adjudication. "We'll be responding to the complaint in the forum the AUC provides," he said this week.

In documents filed before the AUC on Monday, the market watchdog accuses TransAlta of planning shutdowns of six of its power plants at times in 2010 and 2011.

The MSA alleges the shutdowns at peak hours, usually at 5 p.m. on cold winter days, were part of a strategy the utility devised in October 2010 to increase the profitability of its transactions. "The proposed corporate strategy entailed improperly timing discretionary outages in order to maximize TransAlta's profits in both the power pool and the forward market, while impairing the fair, efficient and openly competitive operation of the market," the MSA states in documents filed with the regulatory body.

TransAlta has denied any wrongdoing and filed a complaint against the MSA for conducting an unfair, contradictory and haphazard investigation. It has asked the commission to direct the MSA to cease its investigation.

The utility's spokeswoman Stacey Hatcher did not return calls, but she told the Herald on Wednesday that TransAlta stands behind its employees and its conduct and will defend it.

With Files From Chris Varcoe, Calgary Herald