

TransAlta officials approved plant shutdowns, documents show

BY DARCY HENTON, CALGARY HERALD MARCH 1, 2014

EDMONTON — Top executives at TransAlta approved the strategy of shutting down power plants temporarily to drive up electricity prices for millions of dollars in profits — and company officials congratulated each other about how well it was working, according to documents filed with the provincial electricity regulator.

Three TransAlta vice-presidents, including the vice-president of regulatory and legal affairs, approved a portfolio bidding strategy in November 2010 to stage discretionary plant outages during peak periods to drive up the price of electricity, the market watchdog alleges in documents filed to the Alberta Utilities Commission (AUC) this week.

None of the allegations have been proven and TransAlta denies any wrongdoing. The matter has yet to be heard and adjudicated by the AUC.

“We’re looking forward to a full and fair hearing from the AUC,” TransAlta spokeswoman Stacey Hatcher told the Herald this week, saying plant shutdowns were all for maintenance, operations or safety reasons.

“We do stand behind our employees and we do stand behind our conduct and we will defend it.”

Alberta’s Market Surveillance Administrator (MSA) alleges that four times in 2010 and 2011, TransAlta deliberately shut down major coal-fired generators, usually at the supper hour — the super peak — on extremely cold winter days, to enhance their profits through trades and sales of electricity from other plants they controlled.

Shutdowns of three TransAlta plants in December 2010 garnered a \$6.69-million profit alone — even taking into account penalties TransAlta had to pay the utilities that owned the rights to the power it produced.

When three plants went down Dec. 14, 2010, the electricity price spiked to \$992.25, just short of the maximum.

TransAlta officials congratulated each other in e-mails when the numbers began rolling in.

One of the authors of the strategy, Nathan Kaiser, applauded the “great work” by plant managers on their co-ordinated effort in taking the plants down at the same time.

“All three of these outages were discretionary and all three plant managers worked with us on the timing,” Kaiser stated in an e-mail, quoted in the MSA documents.

“It means juggling schedules and moving into position faster than they might have otherwise, but we received full support through the process. Great Work!”

A followup memo noted that the daily price more than tripled after the units were taken off-line.

The next TransAlta discretionary shutdown in February 2011 triggered an energy emergency alert in which the Alberta Electricity System Operator had to call on all other available generators to supply electricity to the grid to meet the demand to avoid rolling blackouts.

“The MSA concludes that TransAlta disrupted or impaired the safety or reliability of the interconnected system by scheduling a discretionary outage during a time frame where supply was already low and demand was high,” say the documents filed with the commission.

The outage caused the daily price to reach an average of \$618 per megawatt-hour — the second-most expensive day for power consumers in Alberta history.

Documents allege the shutdown garnered TransAlta nearly \$8.5 million over just three days.

When TransAlta took its plants and their committed power off-line, it left their competitors scrambling to purchase electricity from other sources at a price often higher than what they were selling it to consumers, the documents say.

The documents refer to emails from employees about what they should tell Enmax, which owned the rights to the power at one shutdown plant, “to get them off our back.”

TransAlta contends in its written response to the watchdog’s allegations that its actions were not prohibited under the market rules.

It claims the MSA initially portrayed TransAlta’s conduct as acceptable, then later called it “completely offside.”

“This regulatory about-face has created an untenable position for TransAlta and other stakeholders and has created a circumstance best described as a regulatory minefield that TransAlta has been led into,” TransAlta states.

It charges the MSA should have been providing guidance rather than filing charges with the AUC.

Associate minister of electricity Donna Kennedy-Glans said she has faith in both the MSA and AUC to police and regulate Canada's only deregulated electricity market.

"We can't prejudge the outcome of this case. It's the AUC's responsibility to listen to these arguments," she said.

"I respect their qualifications to do that. The AUC will have to deliver the answers to those questions. They are important questions that need clarity."

Wildrose critic Joe Anglin said he doesn't accept the argument that shutting down power plants during peak demand periods to drive up prices for bigger profits is allowable conduct in the market.

"It is wrong under any rules," he said. "I'm saying it is not right to gouge Albertans — and they know it's wrong."

NDP Leader Brian Mason said he has little faith in the MSA investigation or the AUC's ability to adjudicate the matter.

"They are basically trying to manage a system that's virtually unmanageable," Mason said.

Alberta Party Leader Greg Clark said it appears the provincial government needs to give the MSA more teeth, and the ability to levy larger fines when necessary.

"If we're going to have a deregulated system, we absolutely have to have a very stringent regulator with the willingness to enforce those rules," Clark said.

In Calgary, Kaiser's lawyer Steven Leidl questioned the motive behind the MSA actions.

"They are focusing on a very narrow time frame of alleged conduct that occurred in 2010 and very early in 2011," he said Friday.

"They are not alleging any improper conduct by anybody since that time so this has nothing to do with correcting any behaviour that's ongoing today. This is an isolated incident in the past."

He denied his client did anything wrong and said he will contest the MSA's authority to investigate him.

The MSA launched an investigation after receiving a complaint on Feb. 25, 2011, from an unnamed market participant and began asking TransAlta for its records two weeks later.

However, it didn't get its hands on many key documents, including the shutdown strategy memo until two years later. It finally received the Alberta Portfolio Bidding Business Case Executive Summary on July 19, 2013.

Computer hard drives of key players, including Kaiser and head trader Scott Connelly, were either deleted or lost, according to MSA's filed documents.

TransAlta refused to release another 850 documents, which it claimed are privileged, and a court has been asked to rule on whether they have to be turned over.