

8 RESPONSES TO OUTSTANDING MATTERS

Section 8.1 Chronological List of Outstanding Matters

5 Below is a summary table of outstanding directions to the AESO. The section of this Application in which the AESO has responded to each outstanding matter is identified; alternatively, if an outstanding matter has not been addressed herein, this is indicated as a future action.

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No	Direction	Due By	Addressed in / or future Action
Decision 2005-096: AESO 2005 General Tariff Application			
[1B]	Consider other suggestions of TCE	2007 GTA	Section 8.3
4	Assess business case for AESO-developed forecasts	2007 GTA	Section 8.2
[4A]	Explain the basis of forecasts relied on in GTAs	Future GTAs	Appendix B
[4C]	Conduct more thorough review of bulk system lines	Future Study	Appendix C
[4D]	Address TFO O&M costs that may be energy related	Future Study	Section 4.3.3
[12A]	Evaluate minimum service norms for DISCOs	2007 GTA	Section 8.5
[13A]	Conduct further study for investment function proposal	2008 GTA	Addressed in section 6.6 & Appendices F&G
[20A]	Conduct further analysis on appropriate prepaid O&M rate	2008 GTA	To be addressed in 2008 GTA
22	Harmonize DISCO and AESO contribution policies	2007 GTA	Section 8.4
24	Address merchant interconnection principles	2007 GTA	Section 4
[29A]	Include, in all GTAs, revenue requirement and revenue offset amounts for two prior years and the test year, with variance explanations	On- going	Section 2
[29B]	Include, in all GTAs a management discussion section and a cost breakout for two prior year actuals, current year projection, and test year forecast, with variance explanations	On- going	Section 2
[29C]	Include, in all GTAs, insurance cover notes	On- going	Section 2.10
[29D]	Report all amounts received from generators under an LBC SO as an offset to forecast revenue requirement	On- going	Section 2.2.1

[29E]	File annually the number of times conscripted ancillary services were procured and the costs, and include a forecast of such cost in all GTAs	On-going	Section 2.2.1
[29F]	Report, in all GTAs for the term of LBC SO contracts, any occurrences where the generator exceeded the maximum time to commercial operations	On-going	Section 2.2.1
[29G]	Deal with Proxy Unit directions in the Ancillary Services Article Amendment proceeding		As per EUB letter dated Dec. 7, 2005, update provided July 21, deferred to DOE.
Decision 2005-131: AESO Refiling of 2005-2006 GTA			
	No outstanding matters		
Decision 2005-132: Review and Variation of AESO Customer Related POD charge			
5	Conduct further analysis of POD Costs	2007 GTA	Section 4.5.2 & Appendices F&G
Decision 2006-046: TCPL Complaint			
	File amended internal controls with the Board that will prevent such errors in the future.	2007 GTA	Section 8.5
Supplemental information in respect of Board comments from EUB Decisions 2004-012 & 2005-015			
	Board concerns regarding the AESO's use of external legal counsel		Section 8.6

8.2 Business Case for AESO-Developed Pool Price Forecasts

The following addresses the business case for AESO-developed pool price forecasts, as per EUB Board Direction 4, as outlined on page 95 of EUB Decision 2005-096:

Background

The AESO requires a forecast of pool price for its regulated transmission related activities in the preparation of its ancillary services and losses cost forecasts. These are inputs to the forecast revenue requirement that forms the basis upon which the AESO's system access service tariff is set (i.e. in a GTA). It is therefore desirable that the forecast values reflect realistic costs to the greatest extent possible. Notwithstanding, ancillary services and losses costs are subject to deferral accounts and therefore the rates to recover these costs are ultimately adjusted to reflect actual costs.

Direction 4 in Decision 2005-096 (page 95)

In Decision 2005-096, the Board stated:

“The Board is concerned that the EDC information was unable to be disclosed in such a manner as to understand its basis and concludes that an understanding of such information would be helpful in that these forecasts provide the AESO with a foundation for its tariff structure. To that end, the Board directs the AESO at the time of its next GTA to assess the business case for developing its own view on such a forecast using its knowledge of external information and its operating knowledge.”

The Board further expressed (page 7):

“... the AESO has added considerable expertise over the past few years and that it may not require the incremental costs of merely adding more resources. Rather, the Board would look to the AESO to provide such forecasts from its own existing experts and current knowledge of the market activity in Alberta and its participation in its several peer group associations.

The AESO remains free to engage resources such as EDC. However, for purposes of enhancing the understanding of all parties to the GTAs, the process will benefit from the AESO's explanations of the basis of such forecasts, even if these explanations are conclusions and assumptions which the AESO has made. This would provide the Board and stakeholders with a solid understanding of the basis of the AESO forecasts and tariffs.”

Conclusion and Recommendations

In response to this direction, the AESO plans to take the following approach to pool price forecasting for future GTAs.

5 The AESO understands and agrees with the Board that the basis for its pool price forecasts should be able to be disclosed and tested. At the same time, the AESO believes an independent assessment of the pool price forecast continues to be of value. Both of these considerations go towards ensuring the forecast is as realistic as possible at the time it is established, given the information available at that time.

10 Accordingly, the AESO proposes to continue to develop its internal expertise in order to be able to openly provide support for its pool price forecasts. As recognized by the Board, the AESO has internal expertise that it has been continually developing over the years, in order to perform forecasts in relation to various disciplines the AESO undertakes, such as system planning and market operations. Since the expertise is already being developed, this will not cause any incremental transmission related costs to be incurred.

15 The AESO also proposes to continue to make use of external source pool price forecasts as either the basis for its ancillary service and losses cost forecasts or as a means to validate its own forecasts.

20 The proposed combined approach is expected to deliver the best results in the most transparent and supportable manner.

25 The AESO is not yet in a position of having established the full expertise to the extent required to fully support the forecasts, but expects to be ready to do so for its 2008 GTA and beyond. For the purposes of the 2007 ancillary service and losses cost forecast incorporated in the tariff in this application, the AESO has relied solely on the EDC pool price forecast, as explained in Section 2.

8.3 Comment and Report on Other Suggestions of TCE

Direction 1B (Decision 2005-096)

5 While the Board will not direct the AESO to consider all the other suggestions of TCE at this time, the AESO is directed to comment and report upon them when filing its next GTA.

10 Specifically, as identified in EUB Decision 2005-096, TCE recommended that the AESO should identify potential conflicts of interest between AESO functions, and describe measures for preventing these conflicts.

“These measures could include, for example:

- 15 1. *a revised code of conduct;*
2. *physical separation of staff;*
3. *separate reporting relationships for staff who should not be exchanging information; and*
- 20 4. *staff incentive compensation that ensures that a single potential conflicting objective such as ancillary service cost reduction, does not become preeminent over other objectives, such as system reliability, customer satisfaction and promotion of a fair, efficient and openly competitive market for electricity.”*

Response

25 The AESO understands TCE's suggestions largely revolve around addressing their perception that the AESO (or some of its employees) may – intentionally or unintentionally – be acting or have the ability to act in a manner that may frustrate the competitive market for ancillary services (AS).

30 In response to the Board's direction in relation to TCE's concern and suggestions, the AESO provides the comments in the following areas:

- 35 1. Code of Conduct – The AESO has discussed with interested stakeholders (previously referred to as the Competing Mandates Committee), whether and if so, how, the AESO's Code of Conduct should be modified to reflect the dual role the AESO fulfills. In summary, the AESO has indicated to this group that it has a public interest mandate and operates in a manner that neither compromises system reliability nor diminishes the promotion of a fair and openly competitive market for electricity in Alberta. The AESO will continue to work openly with stakeholders to ensure these goals are met in the best way possible. In those instances where stakeholders consider that specific improvements are warranted to AESO processes or practices, the AESO will carefully review and consider such suggestions. However, the AESO does not agree that a Standard of
40 Conduct as suggested by some stakeholders would either assist or improve the manner in which the AESO carries out its duties and responsibilities.
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2. Physical separation of staff – In general, the AESO submits it has no incentive or motivation to frustrate any aspect of the energy market or the AS market. The AESO therefore does not believe there is a need to physically separate resources as suggested by TCE.

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3. Separate reporting relationships – As noted above, the AESO does not believe there is a need to physically separate resources. However, the AESO notes that it revised reporting relationships in 2005, and continues to review this, for efficiency and improved alignment, which may incidentally provide some of the separation suggested by TCE.

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4. AESO employee incentives – These are no longer tied in any way to reducing AS costs.

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The AESO has also made significant advances in the development of its AS procurement process, the primary objective of which is complete transparency, giving all market participants equal opportunity to supply AS on a competitive basis. The AESO has applied this process in arranging its last four TMR contracts over the course of the last 9 months.

8.4 Harmonization of AESO and Disco Contribution Policies

5 In Decision 2005-096, the Board provided direction to the AESO and stakeholders to evaluate the minimum service norms for DISCOs, and to harmonize the AESO and DISCO contribution policies:

Direction 12A – Evaluate Minimum Service Norms for DISCOs

10 *“The Board considers that it would be an economically inefficient and undesirable result if the type of interconnection (i.e. distribution vs. transmission) sought by a customer was driven more by a DISCO’s more attractive contribution policy than on the basis of which type of interconnection was the most technically sound and cost efficient. Accordingly, the Board considers that it is important for the standard service definitions of the AESO and DISCOs to be aligned to the extent possible. For this to occur, the Board considers that an evaluation and debate must take place regarding the extent, if at all, that a minimum service norm as discussed in the Interconnection Redesign Process should be set at a higher level than a DISCO’s standard facilities definition for a DISCO’s contribution purposes. The Board considers the above described exercise to be an essential aspect of the harmonization of DISCO and AESO contribution policies that should occur as soon as practicable.”*

Direction 22 – Harmonize DISCO and AESO Contribution Policies

25 *“Although the Board considers that the ultimate terms of reference for the harmonization initiative should be established by the AESO and participating stakeholders, the Board considers that it would be beneficial for the harmonization process to, at minimum, address the following issues:*

- *The development of a common definition of standard POD facilities as between DISCOs and AESO (TFO) connected customers.*
- 30 • *Consideration of whether it is appropriate to establish defined “cutoffs” such as a maximum MVA capacity for the consideration of the interconnection of a new customer to a DISCO and/or a minimum threshold for the consideration of the interconnection of a new customer to a TFO system.*
- 35 • *Consideration as to whether it is feasible or appropriate to adopt a common form for a cost based maximum investment function (i.e. a standard formula that would provide a greater cost allowance for the purposes the DISCO’s and AESO’s respective investment policies with increases in the capacity of the interconnection.*

40 *In conjunction with the above, the Board hereby also directs the AESO to provide a progress report on its contribution policy harmonization efforts in conjunction with its 2007 Tariff Application”.*

Response

45 The AESO initiated a consultation process in December 2005 at which time a discussion paper was produced outlining the various issues being considered for the 2007 GTA.

The consultation initiated a discussion on the topic of Distribution Company (DISCO) & AESO harmonization.

5 Stakeholders were asked to provide their perspective on the intent of the EUB directive, and provide feedback on the definition of harmonization as it pertained to the AESO and the DISCOs. Comments provided by the DISCO community were varied. The themes addressed included:

- The need to establish a standard reliability criteria (which would be mutually acceptable to all involved);
- 10 • The notion that “harmonization” could be simply summarized as the indifference to obtaining service from a distribution versus a transmission interconnection; and
- The assertion that full harmonization could not be achieved because of the inherent differences between the different DISCOs and the contribution policies developed over time to meet the unique objectives of each company.

15 Although there appear to be differing opinions among stakeholders on what constitutes harmonization, the AESO submits that sufficient harmonization currently exists between the AESO and DISCOs’ contribution and planning policies, and any differences in interpretation can be resolved through discussion between the different parties.

20 The contribution policies of the AESO and the DISCOs each address a number of considerations while maintaining consistency among the policies. For example, each of the policies contemplates the following:

- 25 • Project costs that exceed a certain investment level approved by the EUB require the customer to pay a contribution;
- Each policy outlines and defines project related costs that are customer-related, and those costs that are eligible to be covered by the investment function versus those costs that are system-related in nature;
- 30 • The investment level functions vary with the contracted capacity requested by the customer;
- Coordination between AESO and DISCOs is required in all planning and interconnection activities to determine the most economic and technically viable interconnection solution for each customer interconnection request; and
- 35 • Customers receive appropriate price signals regarding their interconnection request. For example, as per Article 9.1 of the AESO’s terms and conditions, customers may request a transmission level service but the AESO will only invest up to the level of a distribution alternative if it exists.

40 The AESO also submits there are some considerations that will naturally hamper full harmonization between the AESO and the DISCOs:

- There are inherent cost differences, facility requirement differences, and differences in the levels of reliability required between transmission and distribution interconnections;
- 45 • Technical and operational standards are not consistent among all the DISCOs;
- The evolution of each DISCO’s distribution and transmission system is unique and standardization among the different service providers may prove difficult.

The AESO suggests the harmonization activities undertaken to date sufficiently manage the inherent differences between DISCO and AESO, all the while recognizing the variability among the different utilities. For instance:

- 5 • There are mechanisms in the tariffs of both the DISCOs and the AESO which manage the commercial considerations associated with a customer's interconnection;
- The DISCOs in cooperation with the AESO developed the "Distribution Point of Delivery Interconnection Process Guideline" which were intended to"
 - 10 ○ provide for optimized solutions for new facilities supplying distribution customers; and,
 - ensure effective coordination between transmission and distribution in order to derive lowest possible cost solutions to interconnections while meeting reliability, performance and safety requirements and,
- 15 • Extensive discussion during the AESO's 2005/2006 GTA has provided significant clarification regarding the standard of service provided by the AESO.

Although the AESO believes that the degree of harmonization in its tariff is adequate, the AESO continues to contemplate a consideration whereby the DISCOs would be required to add to their terms and conditions a stipulation that the DISCO investment policy would not allow an investment amount higher than the most economic and technically viable solution, mirroring what is outlined in the AESO's Article 9.1. This would ensure there is indifference between any requested level of service. The AESO intends to present the proposal to the DISCO community and report back in the 2008 GTA, or other appropriate time.

The AESO also acknowledges that some DISCOs have general concerns regarding the interpretation of Standard Facilities and the subsequent treatment in the contribution policy. As noted above the AESO submits the processes and guideline documented to date have greatly increased harmonization between the AESO and the DISCOs. Notwithstanding the AESO will engage the DISCOs to discuss their areas of concern and will report back to the EUB in the 2008 GTA, or next appropriate time.

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8.5 File Amended Internal Controls

In Decision 2006-046, “Complaint Against AESO Application of AESO Contribution Policy”, the Board directed the following:

5 *“The Countess Facility was not the direct subject of this Complaint and EnCana was not an interested party in the proceeding. Therefore, it would be unfair and inappropriate for the Board to make any determinations or issue specific directions to the AESO respecting it.*

10 *However, the circumstances of the Countess Facility do raise generic concerns for the Board about the internal controls supporting the AESO’s interconnection contracting process. It appears that the Countess Facility proceeded prior to the AESO obtaining a firm contractual commitment from EnCana regarding the load to be served. Therefore, the Board considers it reasonable to direct the AESO to:*

- 15 (a) *review its internal controls with respect to identifying those weaknesses that contributed to the errors in the processing of the Countess Facility;*
 and,
20 (b) *file amended internal controls with the Board that will prevent such errors in the future.*

These directions should be complied with by the time of filing the AESO’s next tariff application.”

Response

25 As was noted in the AESO’s 2005/2006 GTA, the AESO worked in cooperation with a number of industry stakeholders to design, develop and implement a new customer
30 interconnection process which took place from January 2004 to March 2005. This is subsequent to the interconnection of the Encana Countess facility, which was energized in September 2003. The intent of the redesigned process was to meet the needs of the customer, in addition to providing further alignment with the provincial legislative
35 landscape.

 During the development of these processes the AESO also endeavored to address transmission need development processes and the accompanying customer contribution policy processes and controls to work in cooperation with the various stages of the
40 interconnection process. These processes and controls were designed to ensure the various commercial and technical considerations associated an interconnection project are appropriately accounted for as the project progressed through the interconnection process, and ensured these measures were applied consistently in all cases.

45 The following information represents the high level stages of the interconnection process and the points where the AESO reviews the technical, contractual and customer contribution considerations associated with a customer’s interconnection request. Of note is that although there are minor differences between a distribution interconnection

request and a direct connect request (the process outlined below follows the direct connect customer approach) the internal review controls are consistent.

- 5 1. Request for System Access Service
The customer completes a preliminary assessment interconnection application form and provides the necessary application fees. The application form collects information on the customer's interconnection request including facility type (load versus generation), contract capacity requirements and requested in-service date.
- 10 2. Customer Proposal
The AESO then prepares a customer proposal based upon the information provided in the preliminary assessment application. In addition to information provided by the customer, the AESO collects input from other departments including Customer Interconnections, Planning, and Regulatory, and a proposal outlining the proposed interconnection alternative (with a +/- 30% cost estimate) and corresponding customer contribution determination is prepared for the customer.
- 15 3. Customer Proposal Acceptance
Once the customer proposal is prepared, it is presented to the customer for approval. The project does not proceed to the next stage in the process until the proposal is approved.
- 20 4. Preparation and filing of the EUB Application
Upon acceptance of the customer proposal the customer must provide the necessary financial security requirements as per the AESOs business practices. The AESO, in cooperation with the Transmission Facility Owner (TFO), prepares an interconnection proposal which provides additional technical detail regarding the interconnection and an updated project cost estimate (+20%/-10%). The updated technical and financial information (including a new customer contribution determination) is presented to the customer and the EUB. Upon approval from all parties the document is filed with the EUB.
- 25 5. EUB Decision
Upon approval of the interconnection facilities by the EUB, additional financial security or customer contributions (where required) are collected from the customer prior to construction.
- 30 6. Facilities are Constructed & Energized
Prior to energization the customer must complete an Energization Certificate and sign a System Access Service contract. In consultation with the customer, where differences between the customers initial requested contract capacity and the contract capacity provided in the System Access Service contract exist, the customer contribution determination is reviewed and any subsequent contract changes or customer contributions are addressed.
- 35 7. Project Closure – Final Project Cost Reconciliation
Upon completion of the project the TFO provides the AESO with the actual costs of the interconnection project and a final customer contribution determination is prepared. Any changes in contract term or customer contribution requirements are finalized with the customer.
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A detailed description of the interconnection process has been available since March 2005 on the AESO web-site (www.aeso.ca) at:

Transmission ► Connecting to the Grid ► Customer Interconnections

8.6 Business Case – Internal Counsel vs. External Regulatory Counsel

The following addresses the business case for the use of external regulatory counsel.

Background

In Decision 2004-012, dealing with the AESO's 2004 Own Costs, the Board found that it was not clear whether the AESO's use of external regulatory counsel was imposing an unnecessary cost on consumers, and that it might explore the matter further in the future (P. 4).

In Decision 2005-015, dealing with the AESO's 2005 Own Costs, the Board accepted the AESO's use of external regulatory counsel in light of the 2005 regulatory workload and the AESO's rationale for the use of external regulatory counsel. The Board directed the AESO to re-examine the issue at its next GTA when the need for external regulatory counsel may have diminished (p. 4). Further mention was made of the issue in Decision 2005-096 dealing with the AESO's 2005/2006 GTA.

Further to the response previously provided to Information Request BR.AESO.004 in the AESO's 2005 Own Cost Proceeding, the AESO provides the following additional business case information for the retention of external legal counsel.

Reasons for the Retention of External Regulatory Counsel

The AESO requires regulatory counsel for a number of regulated activities, including but not limited to the processes associated with the development and approval of the AESO's Tariff and transmission facility needs approvals. Both of these responsibilities have a significant impact on all customers in Alberta. The Tariff outlines the requirements and commercial considerations associated with system access service while the orderly and timely development of transmission facilities is crucial to maintain a reliable transmission system and efficient electricity market.

The issue arising from the Board decisions cited is whether the AESO's hiring of qualified regulatory counsel to advise on Board matters would result in lower costs. While perhaps superficially attractive, the AESO considers this would in fact be a sub-optimal approach, as explained below.

1. Increased Flexibility

Retaining external regulatory counsel provides greater flexibility to AESO management. It enables the AESO to get the work done at the time it needs to be done. This is particularly the case for "peak" work loads, for example, where a significant work effort is concentrated around EUB applications.

The day to day operations of the AESO Regulatory group are carried out by the current complement of staff, supported by other internal AESO personnel, as required. To a

considerable degree, such work does not involve the need for legal advice. There are, of course, from time to time, issues that arise that require formal or informal legal advice. The legal services required by the AESO in regulatory matters are intermittent and demanding, and involve a workload that fluctuates from month to month and which is therefore not particularly suitable to being provided by full-time internal counsel, even if it were possible for internal counsel to meet the other criteria discussed below.

2. Increased Access to Specialized Skills and Expertise

By using external counsel, the AESO has access to specific expertise and capabilities that are not generally available internally. Many institutions benefit by contracting with specialists or professionals for specific tasks that the organization might not need except in particular circumstances.

The nature of the services that the AESO requires can be broadly fit into two categories. The first category is advocacy. This involves preparing for and representing the AESO in a court-room setting, focusing on the provision of litigation skills, including presenting evidence, cross-examining, and oral argument. Regulatory and court-room advocacy is a highly specialized skill. From time to time, this category includes advice on review and variance matters, appeals and judicial review proceedings concerning the Board's decisions. Given the public interest mandate of the AESO, in addition to the fact that its position before the Board must be efficiently and effectively communicated, often in response to the challenges of a diversified and large group of interveners, a skilled advocate is a reasonable and prudent requirement.

The second category is what may be called "solicitor's work", or advisory and consultative services. This includes services such as the provision of written and/or verbal opinions and advice related to regulatory and other matters relevant to the AESO's mandate. These services are best provided by counsel who is familiar with the AESO's business and regulatory mandate, and includes the review of status of applications before the Board, prior Board Decisions relevant to the AESO and other industry-related activity and issues. The desirability of this familiarity is largely driven by the desire for accurate and speedy advice as many of the circumstances where the advice is sought by the AESO are circumstances which demand a quick turn-around.

3. Improvement on Quality

External law firms generally have an array of resources at their finger tips. Firms can "cross-pollinate" good practice from other industries or markets. In addition, the external law firm offers administrative assistance, research assistance, library services, etc. These services (and the associated additional expense) would be necessary were the AESO to hire regulatory counsel, but are not available.

The nature of the regulatory legal services required by the AESO is primarily advocacy and advisory. In order to provide these services to the level required by the AESO to carry out its mandate, and act within the EUB guidelines, the individual or individuals delivering such services should have both extensive and relevant experience and demonstrated skill. An analysis of regulatory legal service providers for other major

industry participants confirms that most have these services provided by outside counsel rather than in-house counsel.

4. Objectivity

5 An external legal advisor is able to stand back from the company it is representing and objectively assess its standing within the market place on any given issue. Experience with other recent decisions in similar fields allows them to quickly assimilate key business issues.

10 Finally, the AESO notes that there have been instances where the Board has found the AESO's external legal fees to be not only reasonable, but an appropriate benchmark for the assessment of the legal fees claimed by other parties (EUB Utility Cost Order 2005-037, page 3).

15 *"The Board considers that the AESO was the most active participant in the hearing. In that regard, AESO presented the largest witness panel, it responded to all of the motions raised at the proceeding, it conducted in-depth cross-examination of parties adverse to its interest and it prepared cogent and*
20 *organized argument and reply."*

Conclusion and Recommendations

25 The AESO strives for an appropriate balance between reasonable costs and service quality in carrying out the regulatory aspects of its mandate. External regulatory counsel, properly managed as the AESO continues to do, provides the AESO and stakeholders with a service level commensurate with this balance.

30 The AESO notes that the preparation of its EUB applications is largely undertaken by its own regulatory staff. This is consistent with the AESO's policy of ensuring that knowledge and experience are retained within the AESO. However, the ability to retain external counsel on an "as needed" basis and to seek out appropriate expertise and seniority will continue to result in both cost efficiency while allowing the AESO to deliver a high standard of quality.

35 External regulatory counsel, through experience serving other clients, access to other resources within their firms, and research capability can provide additional value that in-house counsel, regardless of their ability, might not afford. This contributes greatly to the efficiency and efficacy of the AESO's participation in EUB regulatory proceedings.

40 The AESO also notes that external regulatory counsel are often retained by other industry participants in regulatory proceedings before the Board. The AESO's legitimate need for professional advice in both the preparation and presentation of its cases is no less than that of other parties: the AESO's continued use of external regulatory counsel
45 is no less appropriate.