



July 26, 2007

*Submitted via EUB Digital Data Submission System*

Alberta Energy and Utilities Board  
640 – 5th Avenue SW  
Calgary, Alberta  
T2P 3G4

Attention: Jamie Cameron, Application Officer

Dear Mr. Cameron:

Re: **AESO 2007 General Tariff Application (Application No. 1485517)**  
**AESO Comments on DUC-TCE Complaint Regarding AESO Argument**

In accordance with the letter of July 19, 2007, from the Alberta Energy and Utilities Board (EUB), the Alberta Electric System Operator (AESO) provides its comments with respect to the complaint filed by the Dual Use Customers and TransCanada Energy (DUC/TCE). That complaint, filed by DUC/TCE in letters dated July 13, 2007 and July 23, 2007, requested the EUB to strike certain parts of the AESO Argument filed on June 21, 2007. The basis for this request was DUC/TCE's view that those parts represent "new evidence" that has "prejudiced the DUC and TransCanada's ability to adequately challenge this evidence."

Specifically, DUC/TCE claimed the following in their letter of July 13:

- (1) "...the AESO reserved the right to file additional rebuttal evidence in response to these Exhibits [H-021 and H-037] but chose not to do so."
- (2) The AESO Argument used "both flawed and unsupported assumptions".
- (3) "...the AESO attempts to suggest that significant price reductions will result for dual-use customers who may elect to be served under the proposed standby rate."
- (4) "The AESO had ample opportunity to attempt to counter the rate comparisons the DUC and TransCanada provided, yet the AESO chose to wait until argument to offer evidence in response."

DUC/TCE added in their letter of July 13:

- (5) “...all of the AESO’s filed spreadsheet tab Figure 3.6.5(p54) is new evidence.... To the extent the AESO’s submissions are argument based on the spreadsheet, the AESO’s argument is unsupported by the evidentiary record in the application and should similarly be struck.”

The AESO disagrees with DUC/TCE’s assertions. The referenced sections of the AESO Argument were based on examples and assumptions that were already part of the evidentiary record. The AESO simply summarized evidence presented during the proceeding in a manner which highlighted the important differences between the AESO’s and DUC/TCE’s proposals and included illustrative examples and a graph accompanying the narrative. The presentation of the examples and graph in the AESO’s written argument is similar to use of aids to argument which frequently accompany narrative comments in oral argument, a practice which is familiar to the EUB. The AESO therefore submits that the DUC/TCE request should be denied, and that the AESO Argument should remain on the record in its entirety.

More specifically, the AESO responds to DUC/TCE’s claims as follows.

- 1. The AESO did not limit itself to responding to Exhibits H-021 and H-037 by way of “additional rebuttal evidence” or additional evidence of any sort.**

Exhibit H-021, filed on May 17, 2007, is the DUC/TCE Report, *Results From Analysis of AESO Confidential Data*. The AESO referred to Exhibit H-021 in only one sentence within the referenced pages of its Argument, namely: “As suggested by DUC/TCE’s Results From Analysis of AESO Confidential Data (Exhibit H-021), backup and standby services operate at or near their peak load for only a few hours of the year.” (page 53, lines 1-3) This statement simply states in text what is illustrated in Figure 2 (page 3) and Figure 7 (page 8) in Exhibit H-021 itself.

However, DUC/TCE in their July 13 letter (page 2) specifically point out, “Counsel for the AESO also noted that if the AESO chose to file additional evidence in response to Exhibit H-021 it would be ‘incumbent upon [the AESO] to put a witness forward in order to deal with it.’” Given the AESO’s single-sentence reference in Argument as provided above, the AESO cannot reasonably be considered to have provided additional evidence with respect to Exhibit H-021. DUC/TCE now apparently concur. Their subsequent letter of July 23 does not include the sentence referring to Exhibit H-021 in the specific portions of the AESO Argument which DUC/TCE suggested should be struck from the record.

DUC/TCE’s first claim must therefore be directed at Exhibit H-037, filed on May 24, 2007, which was a revision of Exhibit H-014, filed on May 16, 2007, which itself was a revision of a response to Information Request CG-DUC/TCE-5, Exhibit 315, filed on April 16, 2007. Exhibit H-014 had been put to the AESO panel by DUC/TCE during the hearing, and the AESO witness commented, “...I still cannot follow what the math is trying to do here. It may be better to take this off-line.” (3T: 0658, line 24 to 0639, line 1) After the AESO and DUC/DCE discussed the

exhibit during a break, counsel for DUC/TCE stated, "...I think we're probably at argument..." (3T: 0664, lines 18-19)

Upon the further revision provided in Exhibit H-037, counsel for DUC/TCE explained:

...it looked like we were at the point of argument, and so we were going to leave that.

And on reflection, Mr. Hildebrand felt that the record needed to be corrected before he could say that it was true and accurate to the best of his knowledge and information, and thus we have come forward with this revision.

And I have chatted with Mr. Smellie about this, and we have agreed that since it is being filed rather late, that he may or may not choose to cross-examine on it. But, in any event, we would certainly not oppose and are in agreement if they would like to file a response or reply to this filing. (7T: 1595, lines 2-17)

Counsel for the AESO provided a final comment on Exhibit H-037, saying "...with respect to Exhibit H-037, which you may recall was, I think, a re-revised version of a DUC/TCE information response to the consumer group, I believe, that we would ponder whether or not we wanted to put any further information on the record, and I am instructed that we don't, sir. The information that's necessary to deal with it in argument is all there, and we will proceed in that fashion." (9T: 1848, lines 10-19)

Based on the record during the hearing, the AESO submits it clearly indicated it intended to address Exhibit H-037 in argument, and did so. It is inappropriate to now imply that, if the AESO was to address Exhibit H-037, it was required to do so by filing additional evidence, whether rebuttal or otherwise. Although the AESO considered filing additional evidence during the course of the proceeding, its final conclusion was that additional evidence was not needed to address Exhibit H-037, a position which was agreeable at least initially to DUC/TCE.

**2. The AESO Argument used assumptions which were already on the record and which had not been specifically challenged during the proceeding.**

The sources for the assumptions used by the AESO were as follows:

- (a) "Normal" load is about 80% load factor and operates throughout the year — Exhibit 005, AESO Application, section 4, page 38, lines 20-26.
- (b) "Standby" load occurs for only one month in the year — Exhibit 005, AESO Application, section 4, page 38, lines 28-34.
- (c) An example customer has 100 MW total load comprising contracted load at 41% load factor and uncontracted load at 6% load factor — Exhibit 315, Information Request CG-DUC/TCE-5; Exhibit H-014; and Exhibit H-037.

The AESO is not aware of any participant objecting to or challenging these assumptions during the course of the proceeding, although there was discussion of the analysis based on these

assumptions as indicated by the transcript references provided above in response to DUC/TCE's first claim. The AESO furthermore considers these assumptions to be reasonable, although acknowledging that they are simply assumptions and are not intended to be fully reflective of all standby services. For example, the AESO would expect that there are standby services that would have different contracted and uncontracted load factors than those assumed in the example. However, the assumptions allow the example to illustrate in specific detail the differences between the AESO and DUC/TCE proposals.

DUC/TCE appear to take particular issue with the assumptions summarized in (b) and (c) above. With respect to the assumption in (b), that "standby" load occurs for only one month in the year, the AESO is not aware of any definitive statements on the record by DUC/TCE about the frequency of standby load occurrence. The AESO therefore used the assumption stated in its Application. As stated by the AESO in Reply Argument filed on July 13, 2007, "The AESO considers that if standby load occurs every month of the year, then it is more similar to a "normal" service than a backup or standby service, and should accordingly pay an even higher share of costs." (page 24, lines 35-37)

DUC/TCE also suggest that the contracted and uncontracted load factors assumptions in (c) are "flawed" and "erroneous". The AESO has simply utilized the assumptions stated by DUC/TCE in Exhibit H-037. The AESO is not aware of DUC/TCE qualifying those assumptions in any manner, and so used them in the comparison provided in the AESO's Argument.

In any case, the assumptions were on the record in this proceeding prior to the AESO filing its Argument. If these assumptions were "flawed and unsupported", then the AESO suggests it was incumbent on DUC/TCE to indicate as much during the proceeding, especially as these matters were the subject of discussion between the AESO, DUC/TCE, and others.

### **3. Significant price reductions will result for dual-use customers served under DUC/TCE's proposed standby rate.**

The AESO introduced the section of its Argument containing those portions to which DUC/TCE objects with the following paragraph (page 51, lines 6-9):

DUC/TCE suggested its proposed standby rate provided charges only moderately less than the AESO's proposed DTS rate (Exhibit H-014). Although DUC/TCE's comparison is technically accurate, the AESO suggests it does not fully represent the differences between the AESO's proposed DTS rate and DUC/TCE's proposed standby rate.

The AESO then illustrated how, based on assumptions already on the record, different charges would accrue under the AESO and DUC/TCE rate proposals for standby services over a range of total load factors. In their Reply Argument, DUC/TCE apply different assumptions and provide a "16 MW contract capacity, 5% outage rate" example where the DUC/TCE standby rate proposal provides a 29% reduction compared to the AESO DTS rate proposal (Appendix A to DUC/TCE Reply Argument and DUC/TCE Reply Attachment Summary workbook).

The AESO notes that the calculations provided by DUC/TCE in Exhibit H-037 provided different conclusions. The first comparison in Exhibit H-037 resulted in an 18.0% “savings” for standby usage attributable to the DUC/TCE standby rate. The second comparison in Exhibit H-037 resulted in essentially equivalent revenue-to-cost (R/C) ratios under each rate proposal: a 106.1% R/C ratio for the DUC/TCE rate compared to a 106.2% R/C ratio for the AESO rate. The third comparison in Exhibit H-037 also resulted in similar R/C ratios under a different cost assumption: a 134.6% R/C ratio for the DUC/TCE rate compared to a 128.5% R/C ratio for the AESO rate.

The comparisons in Exhibit H-037 clearly suggested charges for a standby service under the DUC/TCE rate proposal would be similar to charges under the AESO DTS rate proposal. However, the comparison provided in Appendix A to the DUC/TCE Reply Argument provides a 29% reduction compared to the AESO DTS rate proposal. The AESO does not disagree with the different assumptions or example in DUC/TCE’s Reply Argument, and suggests that the resulting 29% reduction is more in keeping with the AESO’s argument that “the DUC/TCE proposed rate provides a significant discount from the AESO proposed rate” (AESO Argument, page 54, lines 19-20).

In summary, the AESO submits that the DUC/TCE Reply Argument supports the conclusion that dual-use customers who may elect to be served under the proposed standby rate will receive significant price reductions, rather than experience the minimal differences suggested in Exhibit H-037.

**4. Adequate information existed on the record for the AESO to address the DUC/TCE rate comparisons in argument.**

The AESO notes that the final version of the DUC/TCE rate comparisons provided in Exhibit H-037 were not filed by DUC/TCE until May 24, the seventh day of the hearing and several days after the AESO panel stepped down on May 17. On reviewing Exhibit H-037, and the preceding Exhibits H-014 and 315, the AESO concluded the example and assumptions already on the record could be used to address Exhibit H-037 in argument. Filing additional evidence, which would have implied re-seating an AESO witness for cross-examination, seemed unnecessary as the AESO did not intend to present new examples or assumptions.

The AESO indicated its intent on the second-last day of the hearing, when counsel for the AESO stated, “The information that’s necessary to deal with it in argument is all there, and we will proceed in that fashion.” (9T: 1848, lines 17-19)

The AESO agrees there was opportunity to provide additional evidence, but submits that no new evidence was required or filed. The AESO simply applied each party’s proposed rate to an example by way of an aid to argument using assumptions already on the record.

## **5. The AESO provided no new evidence in its Argument.**

As the AESO has explained above, the AESO did not provide any new evidence in its Argument.

The AESO's Argument first provided in Table 3.6.2 (page 52) charges that were "the same as those provided by DUC/TCE in revised Information Response CG.DUC/TCE-05 (Exhibit H-014), although only the system charge is presented...." (page 52, lines 19-20)

The Argument then provided in Table 3.6.3 (page 52) comparable charges based on the assumption that "a true backup or standby service would not operate above its contracted capacity (as defined in the DUC/TCE proposed standby rate) in other months of the year." (page 52, lines 21-23) This assumption was consistent with the AESO's analysis in section 4 of its Application (Exhibit 005, Section 4, page 38, lines 31-32).

These charges were summarized in Table 3.6.4 (page 53), again based on the assumption in the AESO's Application that charges would be based on metered demand for one month and ratchet charges for 11 months (Exhibit 005, Section 4, page 38, lines 31-32).

Finally, the AESO's Argument provided in Figure 3.6.5 (page 54) a graphical illustration of similar calculations based on the assumptions in "the example in revised Information Response CG.DUC/TCE-5 (Exhibit H-014), with calculations similar to those provided above. Peak load was 100 MW, contracted load factor was 41%, uncontracted load factor was 6%, and contracted load was varied from 0 MW to 100 MW in 1 MW increments. Uncontracted load was assumed to occur in only one month of the year." (AESO Argument, page 54, lines 5-9) The only parameter that changed was that "contracted load was varied from 0 MW to 100 MW in 1 MW increments." All calculations were as completed in the Tables 3.6.2, 3.6.3, and 3.6.4, using the assumptions already on the record and AESO and DUC/TCE proposed rates.

The AESO submits that the information provided in its Argument was clearly based on the record in this proceeding and does not constitute new evidence. It introduced no new facts or assumptions. It relied on evidence previously provided by the AESO and by DUC/TCE (which incorporated a scenario established in Information Request CG.DUC/TCE-5).

Of particular concern to the AESO is DUC/TCE's assertion that the AESO's Argument was abusive of the EUB's process. Using evidence on the record, the AESO endeavoured in Argument to illustrate certain points in other than a solely narrative manner. Its purpose in doing so was simply to ensure the EUB had the best information available, presented in what the AESO submits is a reasonable and acceptable fashion, before considering its decision in respect of these issues.

In summary, the AESO submits that DUC/TCE's complaint is without merit and should be dismissed. There is no reasonable basis to disallow the portions of the AESO's Argument identified by DUC/TCE. The AESO similarly considers it reasonable to allow to remain on the record those portions of the DUC/TCE Reply Argument which address the disputed portions of the AESO's Argument, which in the AESO's view also provide valuable and relevant information to the EUB. In the AESO's opinion, both the AESO's Argument and the DUC/TCE

Reply Argument are based on examples and assumptions established by the record in this proceeding, and illustrate the comparable charges which result from those examples and assumptions.

If you have any questions on these comments or need additional information, please contact me at (403) 539-2465 or by e-mail to [john.martin@aeso.ca](mailto:john.martin@aeso.ca), or Heidi Kirrmaier at (403) 539-2751 or by e-mail to [heidi.kirrmaier@aeso.ca](mailto:heidi.kirrmaier@aeso.ca).

Yours truly,

*[original signed by]*

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cc: Heidi Kirrmaier, Vice-President, Regulatory, AESO