



# Alberta Electric System Operator (AESO)

Request to Commence Settlement Discussions  
Article 11

August 3, 2007

**ALBERTA ENERGY AND UTILITIES BOARD**

Decision 2007-062: Alberta Electric System Operator (AESO)  
Application No. 1357161

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

Telephone: (403) 297-8311

Fax: (403) 297-7040

Web site: [www.eub.ca](http://www.eub.ca)

## Contents

<b>1</b>	<b>INTRODUCTION.....</b>	<b>1</b>
<b>2</b>	<b>BACKGROUND AND VIEWS OF THE PARTIES.....</b>	<b>1</b>
<b>3</b>	<b>VIEWS OF THE BOARD.....</b>	<b>2</b>
<b>4</b>	<b>BOARD ORDER.....</b>	<b>4</b>



# ALBERTA ENERGY AND UTILITIES BOARD

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Calgary Alberta

## ALBERTA ELECTRIC SYSTEM OPERATOR (AESO) REQUEST TO COMMENCE SETTLEMENT DISCUSSIONS ARTICLE 11

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Decision 2007-062  
Application No. 1357161

### 1 INTRODUCTION

On July 6, 2007 the Alberta Energy and Utilities Board (Board) received an application (the Application) from the AESO, pursuant to Board Directive 018, requesting approval to initiate a negotiated settlement process concerning the compensation to be paid by the AESO for the provision of Ancillary Services (AS), including Transmission Must Run (TMR) services. The AESO stated the process was intended to facilitate the finalization of Article 11 (of the AESO's Terms and Conditions of system access service), last approved on an interim basis in [Decision 2005-125](#).<sup>1</sup>

On December 16, 2004, the Board issued an interim order, effective December 17, 2004, approving the then existing Article 24 on an interim basis, and directed that all payments for service provided on or after December 17, 2004 would be considered interim and subject to adjustment in accordance with the Board's final determination. The AESO observed that a subsequent update to interim Article 24 (then renamed to Article 11) was issued in Decision 2005-125 dated November 15, 2005, primarily to ensure compliance with the *Transmission Regulation* (AR 174/2004).

The AESO stated that it now understands that legislation will not address the matters in question, as it had previously anticipated, and that it believes it is appropriate to now resolve and finalize all remaining Article 11 concerns with stakeholders through, in the first instance, a NSP.

The AESO has proposed to inform the Board of the status of the process no later than September 30, 2007 and indicate when formal applications are expected requesting either approval of a settlement or of another AESO submission concerning the form of Article 11.

### 2 BACKGROUND AND VIEWS OF THE PARTIES

The Board issued Notice of the Application on July 12, 2007 and received comments from the Industrial Power Consumers Association of Alberta (IPCAA), Independent Power Producers Society of Alberta (IPPSA), Powerex, Public Institutional Consumers of Alberta (PICA), ATCO Power (AP), TransCanada Energy Ltd (TCE), and ENMAX Energy Corporation, most of which were supportive of the Application.

ATCO Power observed that on May 4, 2007, the AESO had advised the Board that an agreement between the AESO and AP was in the process of being papered and the AESO did not require

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<sup>1</sup> Decision 2005-125 – Alberta Electric System Operator (AESO) Interim Approval of Article 11 of AESO Terms and Conditions (Maximum TMR Compensation) (Application 1357161) (Released: November 15, 2005)

the Board's assistance to finalize the agreement. In the interests of a more streamlined negotiating process and avoiding complicating a commercial agreement negotiated in good faith, AP requested that approval of the request for a NSP not prejudice the pending agreement between the parties. AP indicated that it understood that its agreement with the AESO dealing with compensation for TMR services provided by AP's Rainbow generating units in the past and on going-forward would be maintained separate and apart from the Application.

TCE requested that the Board clarify that the scope of the settlement process should include the payments of any invoices for Article 11 payments that have not been accepted by the Board as final, and that all such invoices for Article 11 payments submitted to the AESO thus far and until the Board's final determination on the matter will be considered interim and refundable. TCE agreed with the AESO's proposed initial status update of September 30, 2007, and also encouraged the Board to set a deadline on the negotiations, and proposed October 31, 2007 as a reasonable deadline to conclude negotiations.

By letter dated July 24, 2007, the Board requested that the AESO clarify which aspects of the application it considers would be included or excluded from the scope of the proposed NSP, and for any aspects excluded, the process and deadlines by which applications will be submitted to the Board on any such issues. The Board requested clarification of the status of the AP agreement, and whether the AESO considers that agreement to be within or outside the scope of the proposed NSP.

In its response by letter dated July 26, 2007, the AESO stated that the scope of the NSP would include provisions for the payment of Ancillary Services (as defined by the *Electric Utilities Act*) when the AESO requires a customer to operate its generating unit to provide such services (the Ancillary Services Tariff) and when no contract exists. It stated that the negotiations would also include the effective date of the final Ancillary Services Tariff, which may have the effect of modifying payments made for this service under the interim Article 11, if the new Ancillary Services Tariff is effective prior to its approval date. The AESO anticipated only submitting one application for the Ancillary Service Tariff and including with this application the form of the settlement that may be required if the requested effective date is prior to the final approval date.

With respect to the process and deadline for completion of the NSP, the AESO stated this had not been determined. It suggested that a process and schedule will be provided as soon as it is available but no later than September 30, 2007. With respect to the AP agreement, the AESO stated that it does not intend to include the AP agreement in the NSP, as it anticipates that the provision for treatment of existing contracts for Ancillary Services compensation that presently exists in Article 11.2 will be maintained in the new Ancillary Services Tariff. As such, the AESO would consider the AP agreement to be considered by the AESO to be an "existing contract with the AESO" as referenced in Article 11.2. The AESO indicated that the status of this agreement has not changed from the summary provided by the AESO on May 4, 2007.

### **3 VIEWS OF THE BOARD**

The Board observes that no party has indicated an objection to the proposed NSP. While the Board notes that the parties have not been successful in previous discussions, the Board considers that given that interested parties are open to a negotiated solution, it would be desirable to allow the parties to attempt a negotiated settlement of these matters.

With respect to the AP agreement, the Board understands that within the NSP, the AESO intends to treat this agreement as an existing AS contract within the meaning of Article 11.2 and the new Ancillary Services Tariff.

The Board notes that TCE has suggested that the Board impose a final deadline for the completion of discussions while the AESO has only suggested that an interim report be filed September 30, 2007.

The Board is mindful of the ongoing nature of this proceeding, the fact that interim payments continue to be made pursuant to interim Board orders, and the uncertainty in the industry as to the nature of the compensation payable under the existing Article 11 language and the future state of the Article 24 provisions. Given these considerations, the Board considers it in the interest of all concerned that these matters be pursued diligently to resolution, in an efficient and expeditious manner.

The Board also agrees with TCE that in the context of this proceeding, it would be appropriate that the AESO file a status update (the Status Update) by no later than September 30, 2007, which is to include a report on the level of success of the negotiations, the issues that have been resolved and the issues that remain unresolved. Further, the Board considers it appropriate that the AESO file with the Board and interested parties, by no later than October 31, 2007, either a settlement agreement along with relevant request for Board approval, or withdraw its existing applications relating to Article 11 (and previously Article 24) and file a new and comprehensive application that fully reflects the issues resolved and unresolved in the NSP.

With regard to a Board observer, the Board notes that it is custom now to appoint an observer and confirms that such an observer will be selected in due course.

#### **4 BOARD ORDER**

IT IS HEREBY ORDERED THAT:

- (1) The AESO request to commence a NSP concerning the final wording of Article 11 and the final compensation to be paid by the AESO for the provision of Ancillary Services (AS), including Transmission Must Run (TMR) services, is hereby approved.
- (2) The AESO is hereby directed to file the Status Update, by no later than September 30, 2007.
- (3) The AESO is hereby directed to file, by no later than October 31, 2007, either:
  - (a) a settlement agreement along with relevant request for Board approval; or
  - (b) withdraw its existing applications relating to Article 11 (and previously Article 24) and file a new and comprehensive application that fully reflects the issues resolved and unresolved in the NSP.

Dated in Calgary, Alberta on August 3, 2007.

#### **ALBERTA ENERGY AND UTILITIES BOARD**

*(original signed by)*

A. J. Berg, P.Eng.  
Presiding Member

*(original signed by)*

T. McGee  
Member

*(original signed by)*

M. L. Asgar-Deen, P.Eng.  
Acting Member