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October 29, 2009

Heidi Kirrmaier
Vice-President, Regulatory,
Alberta Electric System Operator
2500, 330 - 5th Ave SW
Calgary, Alberta
T2P 0L4

Re: Improvements to ISO Rule Consultation Process

Dear Heidi,

Further to the Alberta Electric System Operator's ("AESO") letter of October 1, 2009 regarding improvements to the ISO Rule consultation process, draft information document on the ISO Rule consultation process ("Draft ID"), and the related October 22, 2009 stakeholder information session ("Stakeholder Session"), TransCanada Energy Ltd. ("TransCanada") is submitting written comments in respect of this issue.

TransCanada supports the AESO in its efforts to improve the ISO Rule consultation process, including consultation at an earlier stage in the development of ISO Rules. TransCanada is committed to meaningful participation in such consultations, and agrees with the AESO that the process should be comprehensive, inclusive, transparent, fair and efficient.

As TransCanada has stated in the past, the thinking of both the AESO and stakeholders evolve as consultation proceeds. TransCanada is concerned that certain aspects of the Draft ID will overly formalize the consultation process and risk transforming the consultation process into a litigation process:

1. TransCanada is concerned with the language contained in point 8 of the Draft Terms of Reference (Attachment 2 to the Draft ID) that requires stakeholders to "agree to adhere" to the Terms of Reference. As a list of stakeholders and a list of issues are provided in the Terms of Reference, TransCanada believes this wording could preclude the consideration of further issues that may arise throughout the course of the consultation or the involvement of other stakeholders who did not initially indicate a desire to participate in

the process. This outcome would run contrary to the purpose of a comprehensive, inclusive, transparent, fair and efficient consultation process.

2. TransCanada is concerned with the language contained in point 11 of the Draft ISO Principles for Consultation on Rule Development (Attachment 1 to the Draft ID) which states that each stakeholder will “commit” to “raise all concerns or suggestions for improvement”. While stakeholders should be encouraged to put forth all concerns, stakeholders may not become aware of concerns with the Rule until a later date and as a result, a formal or binding “commitment” to raise “all concerns” cannot be given.
3. TransCanada supports the use of “off the record” documents and meetings provided for in point 6 of the Draft Terms of Reference (Attachment 2 to the Draft ID) as a mandatory and not optional provision. Free, open and “without prejudice” discussions should be permitted in all consultation processes. TransCanada urges the AESO to retain flexibility and informality in its consultation processes.
4. TransCanada believes that Step 13 of the Draft ISO Rule Consultation Steps (Attachment 3 to the Draft ID) should be removed. This step requests position letters from stakeholders after the AESO has addressed stakeholder comments, provided for any additional consultation (if required) and finalized the proposed rule. As such, it does not appear that the position letter will be used by the AESO to shape the rule in any way. Requesting stakeholders to submit a position on a finalized rule inappropriately imports the litigation process for rule objections into the consultation process. As noted in the comments submitted by TransCanada to the Alberta Utilities Commission (“AUC”) in respect of AUC Bulletin 2009-20, a market participant’s right to object pursuant to s. 20.4 of the *Electric Utilities Act* cannot and should not be limited on the basis of their participation in the AESO consultation process. However, TransCanada remains concerned that a position letter that is placed on the record (or the decision not to submit a position letter) could be used against a stakeholder in a subsequent rule objection hearing before the AUC.

Finally, TransCanada suggests that the AESO conduct an industry review of the revised ISO Rule consultation process 18 – 24 months after implementation to determine whether any process improvements are required.

Should you wish to discuss any of this further, I can be reached at (403) 920-2081 or via e-mail (chris_best@transcanada.com)

Yours truly,
TransCanada Energy Ltd.

[sent electronically]

Chris Best
Market Services, Western Power