



December 17, 2009

Dear Stakeholders:

Re: Improvements to AESO Consultation Process for Rule Development

Thank you for your comments with respect to the AESO's proposed improvements to the consultation process for development of ISO Rules. In this letter we will respond to key comments received, and describe the next steps to be taken by the AESO in developing these process improvements.

Background

On October 1, 2009, the AESO posted draft process documents related to this initiative on its website (ISO Principles for Consultation on Rules Development ("Principles"), Terms of Reference Template, and ISO Rule Consultation Steps ("Steps")). Stakeholders were invited to comment on these documents by email by October 29, 2009.

The AESO held a stakeholder consultation session regarding these materials on October 22, 2009.

The AESO received written comments from Capital Power Corporation, Direct Energy Marketing Limited, Independent Power Producers Society of Alberta (IPPSA), TransAlta Corporation, and TransCanada Energy Ltd. We have reviewed these comments, and the verbal comments received on October 22, 2009. We have made a number of changes to the process documents as a result of these comments, as well as comments provided through internal review at the AESO.

These revised process documents will be further reviewed by the AESO early in 2010. Once the process documents have been finalized, stakeholders will be notified through the stakeholder newsletter and the revised process documents will be provided on the AESO website. We intend to adhere to the new process as fully as possible for any new rules consultation processes that are initiated after the first quarter of 2010. Your further feedback is welcome as we go forward, as we anticipate the process will likely evolve over time.

Responses to Key Comments

Most stakeholders stated that they should not be required to provide in writing their position regarding a proposed rule change at the end of the consultation. Stakeholders were concerned that doing so could be prejudicial to them if they later object to the Rule in an Alberta Utilities Commission (AUC) proceeding. In response to these concerns, the AESO will change the "Steps" document to indicate that position letters are optional.

Stakeholders asked if the AESO would commit to providing information within specified timeframes. In response to this comment, the AESO will review the possibility of adding suggested guidelines to certain key steps in the process. The AESO notes that the timeframes for a specific rules consultation process will be established in the Terms of Reference relating to that rule, in consultation with stakeholders. It is expected that these timeframes will be commensurate with the potential impacts, complexity or urgency of a proposed rule.

With respect to the suggestion that when a rule consultation process is posted, the AESO should identify the type of market participant who may be affected, such as, for example, generators, marketers, retailers; the AESO agrees, and will include this information in its invitation to participate in a consultation process.

It was suggested that the early stages of the Steps should not be described as “solidifying” the policy position, because the AESO should not solidify its policy position until the AESO has reviewed and presented the issues to stakeholders. The AESO agrees, and will rename this section of the Steps to more accurately describe its purpose, which is to discuss issues with stakeholders in order to more fully understand the challenges faced in developing a rule.

Another suggestion was that the AESO should work with market participants to develop an agreed understanding on some of our market’s undefined concepts, such as injection rights and transmission rights, and that the AESO’s Market Advisory Committee could potentially be used to begin such discussions. The AESO notes that the ISO Rules Consultation Process does not preclude market participants from raising issues in broader fora, such as the Market Advisory Committee, nor from having discussions with the AESO on general matters such as policy interpretation. These more general discussions may lead to the determination that new rules or updated rules are required, and may provide the underlying principles or objectives for the initial stage of the ISO Rules Consultation Process.

It was suggested that three additional sections: “Objectives”, “Scope” and “Measures” be added to the Terms of Reference template. The AESO agrees that adding an explanation of what is and is not included in the scope of a rules consultation process would be helpful, and will add this to the Terms of Reference template. The AESO considers that it would be premature to attempt to identify, at the Terms of Reference stage, the “Objectives” or desired outcomes of a proposed rule, as well as the “Measures” for determining if a proposed solution effectively addresses the issues. The “Objectives” and the “Measures” of a proposed rule are part of the subject matter related to a rule, and therefore can be discussed and addressed, if appropriate, during the consultation process.

With respect to the suggestion that the AESO’s public interest mandate should be limited to considering the public interest in the context of its duties to provide for the safe, reliable and economic operation of the electric system and to promote a fair, efficient and openly competitive (FEOC) market for electricity, the AESO considers that its public interest mandate encompasses the public interest as a whole. Before AESO rules are filed with the AUC, they must be approved by the AESO. AESO board members have a general statutory duty to act in the public interest, as is set out in section 8(9)(a) of the *Electric Utilities Act*. Even without this express statutory obligation, the AESO would be required to consider the interests of individuals in the context of the public interest as a whole. While the goals of the AESO include system reliability and a FEOC market, the limits on how those goals are attained, such as, for example, how much

redundancy should be built into the system for reliability purposes, are ultimately set with regard to the broader public interest.

Another suggestion was that the AESO should develop its own “pro and con” assessment of the solution it proposes. The AESO considers that the assessment of the merits and drawbacks of proposed solutions is to be done with stakeholders through the consultation process.

A stakeholder asked if a rule and the corresponding Operating Practice and Procedure (OPP) could be developed at the same time. The AESO intends to take this approach. It is also open to stakeholders to raise linkages between processes in the consultation process. Furthermore, over time, OPPs will be transitioned into rules through the AESO’s Transition of Authoritative Documents (“TOAD”) process.

Once again, we thank stakeholders for your comments regarding this initiative. If you have any questions or comments, please contact me at (403) 539-2751 or Jennifer Hocking, Regulatory Legal Counsel, at (403) 539-2578.

Sincerely,

<sent electronically>

Heidi Kirrmaier
Vice President, Regulatory

cc. John Esaiw
Alberta Utilities Commission