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May 28, 2010

Alberta Electric System Operator
2500, 330 - 5th Ave SW
Calgary, Alberta
T2P 0L4

Attention: Darren McCrank

Dear Mr. McCrank:

**Re: Alberta Electric System Operator (“AESO”)
Intertie Framework Discussion Paper (“Intertie Paper”)
Comments of TransCanada Energy Ltd. (“TransCanada”)**

1. Introduction

TransCanada appreciates the opportunity to provide comments on the AESO’s Intertie Paper. TransCanada comments will be organized by the following topics:

1. Allocation of Available Transfer Capability (“ATC”) between existing interties;
2. Real-time dispatch/scheduling over interties; and
3. Allocation of ATC between existing and new interties.

For the reasons discussed below TransCanada’s position is as follows:

1. In the short term, if neighbouring jurisdictions do not curtail enough volume by hh:45 before the scheduled hour, ATC should be allocated between existing interties on a pro rata basis for all in-merit, same product bids and offers;
2. Imports and exports should be priced and the AESO should work with neighbouring transmission operators to determine what options could best enable real-time dispatch/scheduling; and
3. ATC should be allocated to existing interties first (up to the path rating of the existing interties). New interties may only utilize ATC that they add to the system or which would otherwise be unutilized by existing interties.¹

¹ As discussed below, any measures taken to increase ATC that can be utilized by the existing tielines should be allocated to the existing interties first (up to the path rating of the existing interties).

2. Allocation of ATC between existing interties

The AESO notes at page 4 of the Intertie Paper:

The AESO's next steps on this initiative will proceed in two parallel paths. The shorter term path will aim to resolve the rule pertaining to ATC allocation where a tiebreaker is needed due to same price, same product offers and bids. This situation can exist today with the pending restoration of the AB-Sask intertie and will need to be addressed in the short term.

TransCanada agrees that the AESO should proceed in two paths. In the short term, the AESO should deal with the issue of the ATC allocation between existing Alberta-British Columbia ("AB-BC") and Alberta-Saskatchewan ("AB-Sask") interties where a tiebreaker is required. However, TransCanada believes that the principles that apply to ATC allocation between existing interties are different than the principles that apply between an existing intertie and a new intertie, as described in more detail below. Therefore, the "tiebreaker procedure" rule that the AESO is proposing to file with the Alberta Utilities Commission ("AUC") in the summer of 2010 should be limited to the allocation between AB-BC and AB-Sask and should not be of general application or set a precedent for the allocation between existing interties and new interties.

TransCanada supports the AESO's current practice of allowing the neighbouring transmission operator to curtail any excess volume according to the priority of their transmission products (see pages 6 and 17 of the Intertie Paper). Therefore, TransCanada believes the AESO's need to allocate between existing lines will arise infrequently. In the short term, where the neighbouring transmission operator does not curtail enough volume hh:45 before the scheduled hour, TransCanada recommends that pro-rata allocation for in merit, same product bids and offers is a more fair allocation methodology than the AESO's current practice of last in, first out on the basis of the timing of the receipt of e-tags.

TransCanada's position with respect to ATC allocation between existing interties is based on the following two principles. First, the restoration of both existing interties is a legislative requirement of the *Transmission Regulation* ("TReg") and TransCanada does not believe that any priority should be assigned between each existing intertie for in merit, same product bids and offers. Second, this allocation methodology aligns with the AESO's protocol for the management of transmission constraints within Alberta. Importantly, as a DC line, TransCanada understands that the AB-Sask line did not impact transfer capability on the AB-BC line when it was built. As the current limits on ATC are largely the result of internal constraints that have arisen on the AIES since the interconnection of both existing interties, it is appropriate to align the ATC allocation methodology with the internal transmission constraints management protocol.

TransCanada notes that currently all imports into Alberta are required to be priced at \$0 and all exports are priced at the cap; therefore, all bids and offers will be “same-priced”. If and when the pricing of bids and offers is implemented, TransCanada takes the position that pro-rata allocation should be applied to all in-merit, same product bids and offers as opposed to same priced, same product bids and offers. Differentiation on offer price for all in-merit bids and offers implies a difference in outcome if higher bids or lower offers were given priority; however, as all energy is transacted at the clearing price in the Alberta market this is not the case. TransCanada believes that differentiating on price would simply add to the volume of \$0 offers and bids at the cap. Too many \$0 offers has already been acknowledged as a problem for the Alberta market. Further, the AESO’s internal transmission constraints management protocol utilizes pro-rata curtailment of all in-merit energy (please refer to s. 9.4.4(vii) of the proposed Transmission Constraints Rule). This means of addressing congestion mitigates the race to zero, as acknowledged by the AUC.²

Finally, TransCanada notes that in determining whether a bid or offer is the “same product”, the AESO is required to consider the nature of the transmission rights (i.e. firm or non-firm) that the market participant holds on neighbouring transmission systems. As discussed in more detail below, the AESO cannot ignore the policies, practices and realities of neighbouring transmission systems. Indeed, the AESO’s current practice of allowing the neighbouring transmission operator to perform the curtailments according to the priority of their transmission products with respect to ATC allocation acknowledges the nature of transmission rights on neighbouring transmission systems.

3. Real-time Dispatch/Scheduling

TransCanada confirms its support of priced bids and offers on interties. To facilitate this, TransCanada also supports the AESO’s investigation of methods to permit the dispatch/scheduling of interties in real-time. In the Intertie Paper, the AESO outlines three options to achieve real-time scheduling (please refer to page 11). TransCanada notes that all three options require co-ordination with transmission operators outside of Alberta. Therefore, TransCanada recommends that the AESO consult with transmission operators in neighbouring jurisdictions to understand whether these options are feasible and to help determine which option is optimal. At this time, TransCanada does not foresee difficulties with responding to real-time dispatching/scheduling; however, a full understanding of the impacts of the options is required.

In the event that real-time dispatch/scheduling is too costly or complex to implement, TransCanada would support a review of the option described by the AESO at page 12 of the Intertie Paper, namely the skipping of an importer/exporter in the merit order dispatch within the hour through a dispatch up/down service. The AESO states that consideration of this option has been deferred in the past because it does not treat an import like an internal generator. TransCanada notes that there are many ways in which importers are necessarily treated differently than internal generators and a number of those differences are advantages to importers compared to internal generators. Accordingly this should not dissuade review of this option if real-time scheduling proves too costly or complex.

² AUC Decision 2009-042, paragraph 134.

Finally, with respect to the AESO's discussion of bi-lateral dispatch, TransCanada shares the AESO's operational concerns regarding the physical location of the dispatch. TransCanada believes that bi-lateral dispatch could potentially take control of the system away from the System Controller and could create reliability issues.

4. Allocation of ATC between existing and new interties

TransCanada supports the development of additional interties with neighbouring jurisdictions; however, the AESO's legislated priority is to increase transfer capability of the existing interties, up to or near the path rating of those interties as required by s. 16 of the TReg. The existing AB-BC and AB-Sask interties provide an important service to Alberta and participants have been paying for these interties for many years through AESO tariffs.

The transfer capability of the existing interties is a real and definable benefit that should not arbitrarily be reassigned to another party, as this would undermine the confidence of the market in the regulatory structure and, as explained below, would be a disincentive to the further expansion of intertie capacity. Further, participants like TransCanada have invested in firm capacity in neighbouring jurisdictions over the existing interties with the expectation that these rights would be honoured by the AESO's policies and practices. Sharing ATC with a new intertie would degrade these existing rights and likely cause significant loss to these parties.

TransCanada believes that the proponents of new interties should design their facilities and/or work with the AESO so that simultaneous use of the new and existing interties can occur without any reduction in the existing interties' transfer capability (up to the path rating of the existing interties). Measures could include, for example, designing DC interties, the installation of additional facilities on the intertie or Alberta Interconnected Electric System ("AIES"), the development of Remedial Action Schemes ("RAS"), or the development of market products that could mitigate impacts or create additional ATC. However, TransCanada notes that any efforts to increase ATC should be developed in conjunction with the AESO as system controller and that the existing interties should retain priority to any resulting increases in ATC that could physically be utilized by the existing interties, up to their path ratings.

To the extent that simultaneous use of the new and existing interties cannot occur without any reduction in the existing interties' transfer capability (up to their path ratings), the existing interties should retain their functionality by having priority access to limited ATC (up to their path ratings) over any new intertie. Given the current limits on ATC on the Alberta system, and within Alberta's current zero-priced import/cap-priced export model, the new intertie would only be entitled to schedule flows to the extent that some ATC has not been scheduled on an existing intertie. When Alberta moves to priced imports and exports, TransCanada submits that so long as the customers on the existing interties are in merit, they would retain priority access to the ATC.³

³ With respect to differentiation on the basis of price, the same reasoning applies as outlined above.

Therefore, TransCanada strongly disagrees with the AESO's interpretation that under "current market policy ... there is no commercial priority of one line over another or recognition of commercial rights to ATC" (page 4). TransCanada submits that Alberta government policy, the Alberta legislative framework, the principles of Federal Energy Regulation Commission ("FERC") and Western Electricity Coordination Council ("WECC"), the sworn evidence and testimony of Manitoba Alberta Tie-in Ltd. ("MATL"), and the National Energy Board ("NEB") and Alberta Energy and Utilities Board ("AEUB") approvals of MATL confirm that the existing transfer capability (and ultimately the restored transfer capability up to the path ratings of the existing interties) of the existing interties should not be diminished as a result of a connection of a new intertie.

a. Intertie restoration and expansion policy

TransCanada agrees with the principle cited by the AESO at page 7 of the Intertie Paper: "Intertie market design should facilitate the restoration and expansion of intertie capacity that proves sustainable over the long term and supports efficient market processes". TransCanada submits that the pro-rata allocation of ATC between existing and new interties that do not add any additional ATC is not aligned with this principle or its objectives.

With respect to restoration of intertie capacity, TransCanada notes the AESO's statement that "restoring the current rated capacity of interties is a priority for AESO as well; however, actions to address these short term market solutions are addressed in a separate program" (page 5 of the Intertie Paper). While the measures to restore intertie capacity may be addressed separately, the AESO cannot separate the obligation of restoration from its consideration of ATC allocation. Contrary to the AESO's statement, the restoration of the existing interties is not "a" priority, it is "the" priority of the AESO in terms of intertie policy. The transfer capability of the existing interties has been reduced as a result of internal constraints in Alberta. Since 2004, the AESO has been under an explicit statutory obligation to restore the capability of existing interties to or near their path rating (please refer to s.16 of the TReg). Therefore, to the extent that interconnection of a new intertie would further reduce the transfer capability of the existing interties, TransCanada submits s.16 of the TReg gives priority to the existing interties. To share ATC between the existing and new interties would work against the explicit statutory goal of restoring existing interties to or near their path ratings.

Further, TransCanada supports the expansion of intertie capacity; however, sharing ATC among existing and new interties does not meet the purpose underlying the policy of intertie expansion as outlined in the Provincial Energy Strategy, Electricity Policy Framework or Transmission Development Policy ("TDP"), namely increasing Alberta's ability to import electricity when needed or export surplus electricity when available. As acknowledged by the AESO at pages 4 and 13 of the Paper, under current conditions the MATL line does not create additional transfer capability, but rather would share (i.e. diminish) ATC with the existing interties.

In addition to not facilitating additional imports/exports, TransCanada agrees with the AESO's comment at page 14 that allowing a new intertie to reduce the ATC on an existing intertie would be an impediment to intertie investment. The investment risk of a new intertie is unacceptably high if its transfer capability can be reduced by the addition of the next intertie to be proposed. Further, TransCanada is of the view that if a portion of existing ATC is allocated to new interties that do not add any additional ATC, intertie designs that may be more expensive but that would facilitate additional imports/exports by adding ATC to the system will be discouraged.

As noted above, TransCanada recommends that MATL work with the AESO to determine whether steps can be taken to enable flows on MATL without decreasing the flows on the AB-BC line (up to the AB-BC's path rating). To the extent that MATL's impact cannot be mitigated, TransCanada submits that the ATC of the AB-BC line should retain priority over MATL (up to the AB-BC's path rating).

b. Policy of “no explicit transmission rights” within Alberta

The AESO states that Alberta's market is an energy only market with “no transmission rights” (page 13). Even if it is accepted that there are no explicit transmission rights for intra-Alberta generators and loads,⁴ TransCanada submits this policy does not apply to interties.

The statement that there are “no explicit transmission rights” in the TDP is based upon the promise of an unconstrained system. The legislative and regulatory framework in Alberta requires the AESO to plan and expand the system in order to interconnect intra-Alberta generators and load to the AIES on an unconstrained basis. However, as noted by the AESO in its Intertie Paper at page 13, “a commitment to build an unconstrained system is not feasible on interties given the shared jurisdictional regulatory models”.

⁴ TransCanada believes “transmission rights” of both load and generation are being recognized by the AESO on an intra-Alberta basis in situations of congestion. TransCanada notes that the AESO subjects interconnecting generators to Remedial Action Schemes (“RAS”) in order to facilitate the interconnection of generators in cases of inadequate transmission. For example, in Proceeding 41, Transmission Constraints Management, the AESO confirmed that it does apply the concept of a “trigger participant” to the interconnection of new generation and cited an example in the Fort McMurray area: “The new entrant was assigned -- the name of the trigger participant was assigned a trigger volume that could be constrained and was made known to them what that was before they interconnected. They accepted that as part of their interconnection” (Transcript, page 364). The AESO further testified as to the options the AESO has where transmission is inadequate: “One is to tell the new participant that until the system is constructed and they can have unconstrained access that they simply can't connect. The other option is to implement something like a RAS scheme and allow them to have limited access until those transmission facilities are constructed and they can have full unconstrained access to the system.” (Transcript, page 419). Similarly, TransCanada understands the AESO has and will continue to subject the interconnection of new load in an area of inadequate transmission to a RAS scheme, or alternatively, will not permit the load to interconnect until the necessary upgrades are constructed. For example, the AESO has informed TransCanada Keystone Pipeline GP Ltd. (“Keystone”) that it will not be permitted to interconnect its pump station load for the KXL pipeline until the required transmission reinforcement in the Hanna region is completed (see the evidence of the AESO and Keystone in Proceeding No. 278, Hanna Region NID Application).

This distinction is reflected in the current legislative and regulatory framework. Although sections 9 and 10 of the TReg require the AESO to take import and exports into account for planning purposes, there is no related obligation to make arrangements to expand or enhance the transmission system to accommodate imports and exports, with the exception of the express requirement to restore the existing interties to at or near their path ratings contained in s.16 of the TReg (please refer to s.15(g)). Given this distinction, TransCanada submits it is appropriate for the AESO to treat the addition of new interties differently than intra-Alberta load and generation and existing interties from a transmission rights perspective.

Further, any discussion of transmission rights must recognize the practical realities of interties versus intra-Alberta generation and load. As noted in the Intertie Paper, importers and exporters must be scheduled for the hour and must secure transmission rights for the transmission path into or from Alberta.

c. FERC reciprocity

TransCanada submits that any ATC allocation methodology adopted by the AESO must take into account the regulatory framework of the neighbouring jurisdictions and ought not to devalue the transmission rights held by existing customers in those jurisdictions. Although the AESO's tariff stipulates the terms and conditions for energy entering or leaving the AIES, the energy transaction must be viewed as a whole. For the AESO to parse this transaction and cause the firm rights to transmission capacity held by existing customers in neighbouring jurisdictions to be effectively reduced or eliminated because of the AESO's allocation of ATC does not comply with FERC's open access principles and may inhibit the ability to trade energy in the U.S. due to FERC's reciprocity requirements.⁵

TransCanada recognizes that shippers on a new intertie, such as MATL, may also have contracted for transmission rights up to the point of that intertie's interconnection with the AIES under the tariff applicable to that line, such as MATL's FERC-approved open access transmission tariff ("OATT"). However, TransCanada submits that it is clear that under FERC principles, the addition of a new intertie should not reduce the transfer capability of an existing intertie or impair the related transmission rights of existing customers. FERC principles require neighbouring transmission providers to exchange information in order to achieve accurate and consistent available transfer capability calculations, and that in doing so, conditions on adjacent transmission systems must be accounted for.⁶

⁵ Intertie Paper, page 15.

⁶ *Mandatory Reliability Standards for the Bulk-Power System*, 72 Fed. Reg. 16,416-01 (2007), FERC Order No. 693 at para. 1031-5 and n.333 (defining available transfer capability generically as a measure of the transfer capability remaining in the physical transmission network for further commercial activity over and above already committed uses).

With respect to MATL, the FERC criteria under which its merchant transmission proposal was assessed and approved make clear that MATL should not impact the transmission rights of existing customers on existing interties. At the time MATL was approved, FERC had a checklist of ten criteria for granting merchant transmission lines such as the MATL the right to charge market-based rates, including “the merchant transmission facility should not impair pre-existing property rights to use the transmission grid or interconnected utilities.”⁷ FERC concluded that MATL complied with this criterion for several reasons including (a) MATL will work with the two interconnecting entities (the AESO and NorthWestern Energy) through Coordinated Operating Agreements; and (b) the two interconnecting entities “do not oppose the Project or claim it will impede either the operation of their systems or property rights on their systems.”⁸

d. British Columbia Utilities Commission (“BCUC”) decision

In the Intertie Paper, the AESO discusses the recent BCUC decision relating to a complaint brought by TransCanada regarding increased sales of long term firm point-to-point (“LTF PTP”) transmission service by British Columbia Transmission Corporation (“BCTC”) on the AB-BC intertie.⁹ TransCanada took the position that BCTC had oversold transmission capacity on the line when it increased the capacity offered for sale from 480 MW to 785 MW, with the result that existing firm transmission service customers were unable to make use of the transmission capacity which they had purchased since conditions *in Alberta* frequently limit the use of the path. In the decision, BCUC ordered BCTC to amend its OATT to limit LTF PTP sales on the AB-BC line to 480 MW until such time as the AESO is able to accept additional energy from British Columbia.

Central to TransCanada’s arguments in the BCUC proceeding was the fact that BCTC’s additional sales over 480 MW over the AB-BC line would subject existing customers to increased curtailment and thus, loss of market share to subsequent, new customers, due to the inability of the Alberta system to accept the increased transmission during peak transfer periods.¹⁰ BCUC accepted the evidence of TransCanada’s expert witness that there is a reasonable expectation on the part of purchasers of “firm” transmission service that such service will generally only be curtailed for outages or scheduled maintenance, in other words, for reliability purposes, while “non-firm” transmission service is contemplated as being curtailed for reliability reasons as well as “interrupted” for economic reasons.¹¹

⁷ *Montana Alberta Tie, Ltd.*, 116 FERC ¶ 61,071, paragraph 48 (2006).

⁸ *Ibid.*, paragraph 49.

⁹ BCUC Order G-103-09 (September 10, 2009).

¹⁰ BCUC Order G-103-09 at p.17, 20 (noting that “the firm transmission sold on the BC system was 785 MW in 2008, whereas the maximum Alberta hourly import that year was 625 MW. As a result, scheduled imports into Alberta from BC were curtailed in approximately 26 percent of hours in 2008, 24.5 percent of the hours curtailed were due to Alberta constraints and 1.5 percent due to constraints in BC”).

¹¹ BCUC Order G-103-09 at p.24-25.

The BCUC determined that BCTC's actions did not accord with the spirit of FERC guidelines, in terms of open access to transmission, transparency, and the rights of existing customers over potential new customers.¹² It found that the additional sale of capacity on the AB-BC intertie only served to "further degrade the service of existing customers", and the fact that a transmission customer may need to purchase more capacity than it requires to ensure that it can flow its contracted amount of energy "means that the effective price of transmission is above the stated price and not transparent".¹³ The BCUC concluded that selling additional LTF PTP service which simply resulted in curtailment of existing customers is not increasing the use of the system, and in these circumstances, such sales of additional transmission capacity to new customers at the expense of the degradation of the transmission capacity of existing customers is an example of "undue discrimination".¹⁴

At page 14 of the Intertie Paper, the AESO concludes with respect of the BCUC decision:

The AESO's interpretation of the BCUC decision as it relates to Alberta policy is that a new line should not negatively impact the physical capacity of an existing line, but that neither has a commercial right to the capacity.

TransCanada submits that the AESO has taken an unduly narrow view of the BCUC decision. The fundamental point of the BCUC decision is that transmission operators cannot set intertie policies and practices which ignore the policies, practices, and realities of neighboring transmission systems. The AESO must honour the fact that certain market participants have an existing commercial right to AB-BC transfer capability by virtue of their purchase of firm transmission service in BC.

In any event, TransCanada believes that the "commercial capacity" of the various interties in this scenario is necessarily linked to the "physical capacity". It is physical constraints that lead to the need to determine how to allocate ATC. New entrants that cannot physically add any additional ATC should not be permitted to degrade the rights of existing customers on the existing interties. As noted by the AESO in the Intertie Paper at page 14:

... there is no current mechanism to trigger transmission development for interties as exists internally through the Supply and Demand Transmission Service (STS/DTS) tariffs to effectively eliminate the need for a RAS and eliminate congested physical capacity to transmission. This raises the argument whereby physical capacity should be linked to commercial capacity on the interties.

¹² *Ibid.* at p.35.

¹³ *Ibid.* at p.35-36 (quoting FERC Order 890, p.24: "the queue becomes clogged with duplicative requests which reflect customers' attempts to secure service, rather than the actual quantity of service needed").

¹⁴ *Ibid.* at 37-8 (quoting FERC Order 890-B).

e. MATL NEB and AEUB Approvals

Finally, TransCanada submits that MATL's evidence and the approvals from the NEB and the AEUB support the position that the interconnection of MATL should not reduce the transfer capability of the existing interties.

In its application to the NEB, MATL made the following commitment:

Under the WECC Procedures for Project Rating Review, the power flow on **the MATL line is not allowed to reduce the flows on other existing interconnection paths. If MATL constrains another path so that its transfer capability is reduced, then MATL is responsible for mitigating these reductions.** These mitigations can take the form of curtailments on MATL, additional facility additions, or monetary payments to the affected parties.¹⁵ [Emphasis added].

WECC's *Procedures for Project Rating Review*¹⁶ require that new transmission facilities not negatively impact the transfer capability of existing lines:

A new project rating should not adversely impact the transfer capability of the existing system and individual paths in the system. A new project shall not result in a reduction of another project's Existing or Accepted Rating. If it does, the sponsors of the project should work with all adversely affected parties to mitigate transfer capability limitations or to negotiate appropriate and reasonable compensation.¹⁷

WECC's procedures also provide some examples to help explain its policies. One of these examples describes a scenario where an existing project's "maximum achievable flow" is reduced as a result of a new project. In this scenario, WECC would require the new project to make considerations to ensure that the existing project retains its scheduling rights.¹⁸

¹⁵ MATL Application to NEB, December 21, 2005, Document A0S5Z6, page 31.

¹⁶ See Western Electricity Coordinating Council, *Overview of Policies and Procedures for Regional Planning Project Review, Project Rating Review, and Progress Reports* (April 2005).

¹⁷ *Ibid.* at page 30. See also *id.* at p.29 (stating that the amount of power that a rated project can transfer is protected from being diminished due to subsequent projects, and that if the capability of a path were diminished due to a new Transmission Project it would constitute an "impact" to a protected rating that will require mitigation).

¹⁸ *Ibid.* at page 71.

The impact of MATL on the transfer capability of the AB-BC intertie was taken into consideration by the NEB in its reasons for decision¹⁹ at pages 6-7:

MATL submitted that in British Columbia when the proposed IPL [international power line] is integrated with the 500 kV Alberta-BC tie line, there are certain system conditions that may impact total Alberta imports and exports and few such limitations are explained in the AESO Need document.

Determining the effect of a proposed IPL on other provinces is an important consideration in the Board's examination of an application. ... the Electricity Regulations require an applicant to demonstrate whether or not the proposed IPL will have any adverse effect on power systems in neighbouring provinces. The WECC study will determine if various operating conditions on the Alberta-BC tie line may have any impact on the operation of the proposed IPL and vice-versa.

In the Board's view, MATL must meet or exceed the performance standards that would be set out by the WECC path rating process. The Board would therefore impose a condition on any permit issued to ensure that MATL files the WECC report with the Board prior to commencement of construction. **Such a condition would also require that outstanding concerns related to reduction of transfer capability on another path due to interconnection of the proposed IPL be identified and mitigated, as committed to by MATL in its application.** [Emphasis added].

The NEB went on to impose the following condition on MATL's permit:

10. MATL shall file with the Board, at least thirty days prior to the commencement of construction:

(a) the Western Electricity Coordinating Council (WECC) report that shows whether the power line will significantly impact the power transfer capabilities between Alberta and British Columbia and any other interprovincial or international import/export transmission systems;

(b) **any outstanding concerns or issues arising from the WECC report, related to the reduction in transfer capability on another path due to the MATL interconnection and a plan from MATL to mitigate such concerns through effective measures;**

¹⁹ NEB Reasons for Decision, April 4, 2007, File OF-Fac-IPL-M159-2005 01

(c) a mitigation plan with recommended Remedial Action Schemes from MATL arising from WECC studies to address dynamic stability concerns as a result of the MATL interconnection to the Alberta Interconnected Electric System grid, and identify who will be responsible for implementing the mitigation measures. [Emphasis added].

While a WECC Phase 2 Study Report dated July 24, 2007 that identified certain mitigation measures was filed with the NEB, TransCanada understands that the study results are being amended as the initial study did not consider the addition of 300 MW of wind generation at the MATL Marias substation.²⁰ TransCanada understands this additional 300 MW of generation represents the planned generation of the party that has contracted for the entire northbound capacity on the MATL line.²¹ MATL has confirmed that this generation sensitivity was removed from the scope of the initial study to “expedite the approval process” and that without the amended path rating no generation can be interconnected at the Marias substation.²² To the best of TransCanada’s knowledge, work on the amended Phase 2 Study has not been completed.

TransCanada also notes that the WECC Phase 2 Study Report included a commitment by MATL to reduce or eliminate the impact of MATL on Path 3, which is the British Columbia to United States path, and to “fully protect” Path 3 transfers from being diminished due to MATL flows . When asked whether MATL would make the same commitment with respect to the AB-BC intertie, MATL testified:

...no. The AESO has set out the process for dealing with those kind of concerns and we intend to co-operate with the AESO in that process. So whatever comes out of that, any mitigation that is identified in that ... stakeholder consultation process ... that’s what we will implement.²³

As the AESO is now in the stakeholder consultation process, TransCanada submits that a similar commitment should be required of MATL in respect of the AB-BC intertie as was made in respect of Path 3.

²⁰ Transcript of MATL AEUB proceeding, page 181 and 182.

²¹ *Ibid.*

²² *Ibid.*

²³ MATL AEUB Transcript, page 238.

In its needs identification document (“NID”) application regarding MATL submitted to the AEUB, the AESO stated:

4.2 As a result of the system impact assessment, the AESO will require certain operating limitations of MATL that are designed to maintain the reliable operation of the AIES. These will be established and set out in the AESO Operations Policies and Procedures similar to those for the Alberta– British Columbia and the Alberta – Saskatchewan interconnections. **Specifically, import and export limits described in the NID are to be set for MATL to allow the project to operate without causing harm to existing customers** or reducing the planned capability of the AIES to meet Alberta’s future needs.²⁴ [Emphasis added]

In its decision, the AEUB stated:

In final argument, Powerex stated that it was critical that the Board ensured the line would not harm or negatively impact the ongoing operations and reliability of the AIES and the interties to which it is connected. Powerex stated that certain remedial action schemes and operating procedures were necessary to mitigate introduced inefficiencies and material impacts on the AIES and interconnections. This intervener urged the Board to impose conditions ... The issues Powerex wanted addressed included harm to existing customers, reducing the planned capability of AIES to meet Alberta future needs, or diminish flows on existing interconnections.

...

...The Board does not believe that the conditions proposed by Powerex are warranted as such conditions would either duplicate conditions imposed by the NEB or are matters that the Board is satisfied would be appropriately dealt with by the AESO in the fulfillment of its legislative mandate.²⁵

In this respect, TransCanada notes that in its oral argument to the AEUB, Powerex submitted:

The transmission regulation that I referred you to earlier, Section 16, that requires the restoration of existing interties is very clear. And it’s important to note that the regulation does not require the restoration of interconnections; it requires the restoration of existing interconnections. And I believe the specific language used is to the effect of interties existing in August of 2004 are required to be restored to or near their path capability.

²⁴ AESO NID Application, April 26, 2006, Exhibit. 003-02.

²⁵ AEUB Decision 2008-006, pages 14 and 16.

Pro rata sharing of the available transfer capability is not appropriate in light of this transmission regulation restoration requirement. By splitting the available transfer capability pro rata between the existing lines and MATL is to dig a hole that will require a redoubling of efforts in order to achieve the stated policy objective and the regulated requirement.

...

In conclusion and for the forgoing reasons, Powerex requests ... that the Board condition any approval so as to ensure ... no diminishment of flows on the existing interconnections between Alberta and British Columbia and Alberta and Saskatchewan in accordance with the word and the spirit of the existing regulation.²⁶

In the AESO's oral reply argument, the AESO stated:

... what [Powerex] does say is that conditions should apply to the AESO that specifically say there would be no harm to the AIES. That is to say, that the MATL project would not cause harm to the Alberta Interconnected System, and that there would be no reduction or diminishment of flows across existing paths ...

I think we should deal with the first two in one fell swoop. The reason why these two conditions are inappropriate in my submission is because they are completely redundant to the Act. ... It's very nice for Powerex to suggest that we should comply with the Act, but in my respectful submission, that's inherent in AESO's statutory obligations and its day-to-day affairs.

And similarly, with the issue of the diminishment of flow, as [Powerex] says, these are matters of the regulation and spelled out in the regulation. What you are effectively being asked to do is condition the AESO approval so that it includes all provisions of the Act and the regulations.²⁷

On this basis, TransCanada submits that the AESO expressly acknowledged in the AEUB proceeding that the TReg, and in particular s.16, requires that the AESO not diminish the utilization of existing interties (up to their path rating) by providing for pro rata sharing of ATC between existing interties and new interties. Similar to the decision of the NEB, TransCanada submits the AEUB's decision approving MATL was based on the understanding that there would be no impact to existing customers or reduction in the transfer capability of existing interties.

²⁶ MATL AEUB Transcript, pages 3089, 3094.

²⁷ MATL AEUB Transcript, pages 3113 to 3115.

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If you require further information about TransCanada's comments, please contact the undersigned at (403) 920-5422 or jim_paton@transcanada.com.

Yours truly,
TransCanada Energy Ltd.

Original signed by

Jim Paton
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