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1. **Application**

   1. As required by subsection 24.2(2) of the *Transmission Regulation*, the AESO has developed a competitive process as the method to determine the person who is eligible to apply for the construction and operation of certain transmission facilities. The Competitive Process\(^1\) is set out in the following documents, which are Appendix 1 to this application:

   - Competitive Process document
   - Schedule 1, Request for Expressions of Interest Outline
   - Schedule 2, Request for Qualifications Outline
   - Schedule 3, Request for Proposals Outline
   - Schedule 4, Proponent Agreement Outline
   - Schedule 5, Project Development Agreement Outline
   - Schedule 6, Project Agreement Outline
   - Schedule 7, Defined Terms
   - Schedule 8, Adjustment Methodologies in the CP Project Agreements.

   2. The AESO hereby requests that the Commission:

   (a) approve the Competitive Process pursuant to subsection 24.2(3) of the *Transmission Regulation*; and

   (b) provide such further and other relief as the Commission deems appropriate.

   3. This Application reflects revisions to the original Application filed September 15, 2011 to address the Commission’s findings in Decision 2012-059 issued on February 27, 2012. As such, this version of the Application supersedes and replaces the original Application filed on September 15, 2011.

   4. The first critical transmission infrastructure to which the Competitive Process will apply are the two single circuit 500 kV alternating current transmission facilities from the Edmonton region to the Fort McMurray region. In order for the first of these facilities to be in service by 2017, the AESO must commence implementation of the Competitive Process no later than June 2012. The AESO therefore requests that the Commission approve the Competitive Process prior to that date.

   5. All of which is respectfully submitted this 30\(^{th}\) day of March, 2012.

     Alberta Electric System Operator

     Per:

     [Signature]

     Heidi Kirrmaier
     Vice-President Regulatory

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\(^1\) All capitalized terms shall have the meaning given to such terms in Schedule 7 of Appendix 1.
2. **Background**

5. Subsection 24.2(2) of the *Transmission Regulation* requires the AESO to "develop a competitive process to determine who is eligible to apply for the construction or operation, or both, of the transmission facilities referred to in section 24(3)(a), (c), and (d)."

6. Subsection 24.2(1) of the *Transmission Regulation* describes a competitive process as "a fair and open process that allows any qualified person, as determined by the ISO, to submit a proposal in respect of a transmission facility, including a financial bid, as the method to determine the person referred to in subsection (2)."

7. Subsection 24.2(3) of the *Transmission Regulation* requires the AESO to obtain the Commission's approval of the Competitive Process prior to implementing it.

3. **Consultation**

8. From September 2010 through to July 2011, the AESO consulted with stakeholders on various matters regarding the Competitive Process. The consultation activities included discussion and recommendation papers, the opportunity for the stakeholders to provide comments on those papers, and information sessions in Edmonton and Calgary. The AESO also conducted one-on-one consultation sessions with any stakeholders interested in participating. All consultation material can be found on the AESO website at [www.aeso.ca](http://www.aeso.ca).

4. **Competitive Process Objectives**

9. In the early stages of the consultation, the AESO discussed objectives to guide the development of a fair and open competitive process. After considering stakeholder comments, final objectives were established. It was determined that the competitive process:

   - must result in the minimization of life-cycle costs through the use of competitive pricing;
   - must create opportunity for maximum innovation throughout the life cycle of the facilities;
   - must create opportunity for new market entry;
   - must allocate risk to most efficiently and effectively reduce costs and mitigate risk;
   - must foster efficient investment, operation and maintenance of assets across the life cycle of the facilities;
   - must foster regulatory predictability;
   - must be straightforward and efficient;
   - must clearly state the accountabilities of each party involved;
   - must achieve a reasonable level of transparency and consistency over time;
• must ensure the facilities are designed to meet standards for performance and reliability and do not jeopardize the Alberta interconnected electric system;
• must be fair, open and consultative;
• must consider obligations typically assumed by the incumbent transmission facility owner; and
• must provide transparent selection criteria to address the principles outlined above.

5. Competitive Process Model

10. In developing the Competitive Process, the AESO considered three possible models:
   • The Engineering, Procurement and Construction Model.
     In this model, the Successful Proponent is responsible for all upfront activities\(^2\), engineering, procurement, construction, construction management and financing of all those activities. Upon energization of facilities, the Successful Proponent transfers ownership of the facilities to the incumbent transmission facility owner who maintains and operates the facilities through to decommissioning of the facilities.
   • The Transmission Facility Owner Engineering, Procurement and Construction Model.
     In this model, the Successful Proponent is responsible for the engineering, procurement, construction, construction management, and financing of those activities. The incumbent transmission facility owner is responsible for upfront activities as well as the ownership and maintenance and operation of the facilities from energization through to decommissioning.
   • The Single Owner Model.
     In this model, the Successful Proponent is responsible for all project activities including the ownership, operation and maintenance of the facilities.

After consultation with stakeholders, the AESO selected the single owner model as the basis for the Competitive Process. The single owner model delivers:

• a fair process. The incumbent transmission facility owners and new market entrants are required to bid on all activities, including upfront activities, engineering, procurement, construction, ownership and operation and maintenance, rather than having some of those activities presumed to be carried out by the incumbent transmission facility owner.
• the greatest degree of cost optimization. The Successful Proponent can optimize across the life cycle of the facilities rather than being constrained to portions of the life cycle.

\(^2\) Upfront activities include activities such as preliminary design, landowner consultation, siting and facility application preparation.
the greatest degree of innovation. The Successful Proponent has more
inguity when accountable for
the life cycle of the facilities rather than just portions of the life cycle.

- a straightforward and efficient process. The fewer the handoffs or
  transfers in a process, the more straightforward and efficient that process
  is; there are, for example, no transfer reviews, transfer agreements, or
  liability issues as a result of a transfer.

- maximum accountability. The Successful Proponent has accountability
  for all activities, decisions and consequences of those decisions from
  commencement of a Project to end of contract term.

6. Third Party Expertise

In developing the Competitive Process, the AESO utilized third party experts.

Power Advisory LLC

11. The AESO retained Power Advisory LLC to perform a comprehensive review on
  the competitive procurement activities in the transmission industry in Texas,
  Ontario, Brazil and the United Kingdom. Power Advisory LLC offers expertise
  with electricity system (including transmission facility) investment analysis, power
  market assessment, and market price forecasting. Power Advisory LLC has
  advised clients on the policies to promote the efficient development of
  transmission facilities to enable renewable energy facility development, design of
  transmission tariffs, transmission pricing issues, the appropriate framework for
  the development of merchant transmission facilities, and pros and cons of
  different transmission company business models.

PricewaterhouseCoopers LLC

12. The AESO retained PricewaterhouseCoopers LLC to provide advice on the
  development of the Competitive Process, specifically with regard to risk
  allocation, key commercial terms, financial considerations and the tendering
  process. PricewaterhouseCoopers LLC is the world's largest integrated
  professional services organization, operating in 151 countries. It has developed
  a specialized financial and procurement advisory practice with more than 300
  Infrastructure and P3 practitioners, 30 of whom are based in Canada. It is
  recognized as a world leader for advice on successful competitive procurements
  and P3 projects.

7. Overview of the Competitive Process

13. The Competitive Process developed by the AESO will generally have three
  stages: the Request for Expressions of Interest stage; the Request for
  Qualifications stage; and the Request for Proposals stage. During the Request
  for Qualifications stage, a Proponent must execute a Proponent Agreement. At
  the conclusion of the Request for Proposals stage, the Preferred Proponent must
  execute a Project Development Agreement ("PDA"). Upon satisfaction of the
  terms of the PDA, which includes obtaining facilities application approval, the
  Preferred Proponent must execute a Project Agreement ("PA"), at which time the
  Preferred Proponent becomes the Successful Proponent.

3 Power Advisory LLC’s detailed report can be found with the consultation material on the AESO website at www.aeso.ca.
14. Attached in Appendix 1 to this application are documents which describe the Competitive Process, including outlines of each of the three stages of the Competitive Process and the Commercial Agreements which may be required in respect of a Project.

15. Following in this section is an overview of the three stages of the Competitive Process and the Commercial Agreements.

16. Sections 8 to 11 of this application discuss other key attributes of the Competitive Process, as further specified in the documents in Appendix 1.

**Stage 1 - Request for Expressions of Interest**

17. The principal objective of the Request for Expressions of Interest stage is to attract interest in a Project being competitively procured and assist the AESO in gauging the level of participatory interest in the Competitive Process.

18. The AESO will provide notification to domestic and international audiences that the AESO is initiating a Competitive Process. The AESO will also post the Request for Expressions of Interest on its website.

19. The Request for Expressions of Interest will include information such as:
   - details regarding the scope of a Project and the Request for Expressions of Interest process;
   - instructions to Interested Parties on how to complete REOI Responses;
   - the date, time and method by which the REOI Responses are to be submitted; and
   - any other information the AESO may consider necessary at the Request for Expressions of Interest stage.

20. The AESO may hold public information sessions following the release of the Request for Expressions of Interest to provide Interested Parties with an opportunity to obtain additional information on a Project or on the Competitive Process.

21. There are no technical, financial or other requirements at this stage and therefore no barriers restricting submissions. Responses are not evaluated. All Interested Parties can submit an REOI Response.

**Stage 2 - Request for Qualifications**

22. The principal objective of the Request for Qualifications stage is to identify, from among Respondents to the Request for Qualifications, a short-list of Respondents most qualified to complete the Scope of Work.

23. Any Interested Party not prohibited from participating in the Competitive Process due to Conflicts of Interest will be eligible to participate in the Request for Qualifications. The Request for Qualifications will be made publically available and will be sent to those Interested Parties who responded to the Request for Expressions of Interest or to any party requesting a copy of the Request for Qualifications.

24. The Request for Qualifications will provide information such as:
• the purpose and objectives of the Request for Qualifications;
• the evaluation and selection process for determining a short-list of Respondents to participate in the Request for Proposals process; and
• a description of a Project, including the scope of a Project, any upfront work to be incorporated in a Project, the start and end points of a Project route, high-level technical requirements, the proposed Project schedule, and a copy of the draft Commercial Agreements for a Project.

25. The Request for Qualifications will request that Respondents provide information as to their ownership and organizational structure, management and operational experience, regulatory experience, technical record and capability, financial viability and capability, innovation, cost optimization experience, and ability to undertake consultation and manage stakeholder relationships.

26. The RFQ Submissions will be evaluated by the AESO based on pass/fail and scored criteria, such as organizational capability, financial viability and capability, technical record and capability, consultation and relationship management plan, and innovation and cost optimization record. Those Respondents who pass all pass/fail criteria and attain the highest scores in the scored criteria will be short-listed as Proponents to participate in the Request for Proposals process.

27. The selected Respondents will be required to post financial security prior to advancing to the Request for Proposals stage, demonstrating their commitment to continued participation in the Competitive Process.

Stage 3 - Request for Proposals

28. The principal objective of the Request for Proposals stage is the selection of a Preferred Proponent able to deliver the technical requirements for a Project at the lowest cost.

29. Only those Respondents selected as an outcome of the Request for Qualifications stage will be permitted to respond to the Request for Proposals.

30. The Request for Proposals will provide information such as:
• the purpose and objectives of the Request for Proposals;
• the detailed scope of a Project, including those elements of project development, engineering, procurement, construction, financing, operation and maintenance that will be included in the Scope of Work;
• the business arrangements for a Project, including the proposed forms of the CP Project Agreements;
• the manner in which the AESO will lead Proponent activities related to consultation on land related issues with landowners, First Nations, Métis and other affected stakeholders;
• the Preferred/Successful Proponent’s obligations with respect to communication and consultation, safety, security and environmental management, and quality management; and
• a general summary of the proposed allocation of certain project risks as between the AESO and the Preferred/Successful Proponent.
31. The Request for Proposals will provide a detailed outline of the required form and content of RFP Submissions. Proponents may be requested to make technical and financial submissions and a final submission containing a final financial offer and a detailed plan for financing.

32. The RFP Submissions will be evaluated on a pass/fail basis against the technical and financial requirements provided in the Request for Proposals. A Proponent's final submission will typically be evaluated based on scored criteria including the net present value of all Project costs, excluding financing costs, and any other factors that the AESO considers relevant.

33. It is during the Request for Proposals stage that Proponents may incur significant costs. To encourage continued participation in the Competitive Process and to provide some financial relief, the Competitive Process allows for payment of an Honorarium. Proponents not selected as the Preferred Proponent may receive an Honorarium intended to cover a portion of their costs.

**Proponent Agreement**

34. A form of Proponent Agreement will be included in the Request for Qualifications. Respondents will be required to include an executed Proponent Agreement as part of their submissions.

35. The Proponent Agreement commits a Respondent to providing financial security to the AESO in the event that the Respondent is short listed as a Proponent. The financial security is released if the Proponent submits a compliant proposal and is not selected as a Preferred Proponent, or the Proponent is selected as a Preferred Proponent and executes a PDA with the AESO. The AESO will draw upon the financial security if the Proponent withdraws during the Request for Proposals stage, becomes ineligible, or submits a non-compliant RFP Submission.

36. The Proponent Agreement may provide for the payment of an Honorarium to each Proponent not selected as the Preferred Proponent provided the Proponent submitted a compliant RFP Submission and did not withdraw its submission.

**Project Development Agreement**

37. A form of the PDA will be included in the Request for Qualifications and the Request for Proposals. The PDA will ultimately be executed by the Preferred Proponent.

38. The PDA will serve two basic purposes. It will govern the multi-year project development relationship between the Preferred Proponent and the AESO, during which time the Preferred Proponent will be required to obtain facilities application approval, environmental and other approvals, and financing for a Project. It will also describe the adjustment mechanisms to update Project pricing from that originally submitted by the Preferred Proponent in its response to the Request for Proposals.

39. The PDA will set out Preferred Proponent project development responsibilities, and contain provisions for security deposits, term, termination, modifications and change orders, adjustment mechanisms, bonus payments, schedule, cost saving proposals, insurance, force majeure, relief events, default, and any additional Preferred Proponent obligations.
Project Agreement

40. A form of the PA will be included in the Request for Qualifications and Request for Proposals. The PA will ultimately be executed by the Preferred Proponent upon satisfaction of the conditions of the PDA, including facilities application approval and financial close, at which time the Preferred Proponent will become the Successful Proponent.

41. The PA will set out the responsibilities of the Successful Proponent from Commercial Close until the expiry of the term. The PA will provide the terms and conditions governing the Scope of Work. It also will specify the required facilities condition at the end of the term.

42. The PA will contain provisions governing the release of any Preferred Proponent Security, term of the PA, Scope of Work, Successful Proponent obligations, financing, modifications and change orders, asset condition upon term expiry, payment, payment adjustments, insurance, force majeure, relief events, AESO obligations, PA default and remedies in the event of default, termination of the PA, liability and indemnity obligations, dispute resolution, and Project schedule.

8. Fairness Advisor Role

43. The AESO will appoint a Fairness Advisor to oversee the Competitive Process. The Fairness Advisor will be an individual independent of the AESO.4

9. Selection Panel

44. The AESO intends to establish three panels to evaluate and score RFQ Submissions and RFP Submissions, to assist in the identification of the selected Respondents at the Request for Qualifications stage and the Preferred Proponent at the Request for Proposals stage.

45. Each panel will consist of three members with expertise in one of three domains: the financial domain; the technical domain; and a domain focusing on environmental and consultation matters. After establishing the panels the AESO will select one member from each panel as the senior member of that panel and one member as the senior representative of all panels.

46. Panel members will individually evaluate and score submissions in respect of their domain. After completing the evaluation and scoring, panel members for each domain will convene and review the evaluations and scoring and identify the selected Respondents at the Request for Qualifications stage and the Preferred Proponent at the Request for Proposals stage. After all panels have completed their evaluations and scoring, the panels will meet for the purpose of recommending the selection of Respondents and the Preferred Proponent, as the case may be.

47. The role of the senior member of each panel or the senior representative of all panels is to facilitate discussion and identification of the selected Respondents or the Preferred Proponent.

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4 The AESO will competitively procure a Fairness Advisor using standard industry practices including request for proposals, evaluation and selection of those proposals based on pre-defined and transparent criteria.
10. Managing Uncertainties and Related Risks

48. The Competitive Process, by the nature of the extended period between RFP Submission and Project execution, contains aspects of uncertainty outside the control of Proponents. To the extent possible, the AESO intends to allocate risk to those best able to manage it. This allocation of risk is expected to minimize risk premiums in bid prices. The Competitive Process is designed to allow for bid price adjustments for those uncertainties outside the Proponent’s control, as follows:

- Determination of the Final Route by the Commission. The AESO only provides Proponents with a route start and end point during the Request for Qualifications and Request for Proposals stages. The Proponent submits a bid price based on its estimate of a preferred and alternative route. The Commission makes the final determination of route during the facilities application approval process. To address route uncertainty at the time of bid, the AESO will allow the Preferred Proponent to adjust its bid price once the route is determined as changes to the route could have significant implications on the bid price.

- Elapsed time. An extended period may elapse between the RFP Submission and approval of the facilities application. During this time, the basis on which pricing was calculated may change. To address these pricing changes, the Preferred Proponent will be allowed to adjust its bid price for changes in commodity prices, Alberta labour rates and foreign exchange rates. The adjustments to these components will be based on reputable publically available indices negotiated with the Proponents and set out in the PDA.

- Financial Uncertainties. Due to the indicative nature of the financial submission included at the Request for Proposals stage, the Preferred Proponent will be required, shortly after facility application approval, to run a funding competition to obtain committed financing and update financing costs. The Preferred Proponent will be allowed to adjust its bid price to reflect current market conditions related to financing costs. The Updated Financing Costs will adjust only the pricing of Project debt to reflect the then current market conditions. Changes to the financing structure originally proposed will not be permitted unless the Preferred Proponent can demonstrate to the AESO that an alternative structure results in lower financing costs.

49. In addition to those specific bid price adjustments noted in the foregoing paragraph, the AESO will also allow cost modifications over the life of a Project reflective of more common commercial considerations such as Project scope changes, change in law, relief events and force majeure events. The PDA and the PA will contain provisions allowing for such cost modifications.

11. Project Delivery Incentives

50. The Competitive Process will be complete once the Preferred Proponent and the AESO execute the PA. While price is extremely important, so is the timely delivery of a Project. The AESO proposes that incentives be developed and tied to key milestones in project delivery. The proposed key milestones are:
• Facilities application approval. A fixed dollar incentive payment will be established and made to the Preferred Proponent if the Preferred Proponent receives Commission approval of its facilities application on or before the Target Facility Application Approval Date. The fixed incentive dollar amount will be non-negotiable, and will be payable to the Preferred Proponent as set out in the PDA.

• In-service date. If the Successful Proponent delivers a Project before the Target ISD, the Successful Proponent will begin realizing its monthly revenue stream earlier in the term of the PA. If the Successful Proponent fails to meet the Target ISD, then the term over which it receives its monthly revenue stream payments will be reduced consistent with the late delivery.

12. Summary of the Attributes of the Competitive Process

51. The Competitive Process is designed to satisfy the requirement of the Transmission Regulation for a fair and open process. The following summarizes the key attributes of the Competitive Process:

• The Competitive Process is based on a single owner model giving equal opportunity for incumbent transmission facility owners and new market entrants to bid on all activities in the full life cycle of an asset.

• There are no barriers restricting parties from participating in the Request for Expressions of Interest or the Request for Qualifications stages. Incumbent transmission facility owners and new market entrants are provided the same opportunity to participate.

• Information is provided to all Respondents or Proponents at the same time in each stage of the Competitive Process; no party is given preferential treatment.

• Proponents are aware of the evaluation criteria and scoring methodologies prior to submitting responses to the Request for Qualifications and Request for Proposals; all evaluation and scoring information is transparent.

• The Selection Panel, whose membership is independent of the AESO and the Participants, will be used to evaluate the RFQ Submissions and RFP Submissions and make recommendations to the AESO. Members of the Selection Panel will have the necessary expertise in the financial, technical, and environmental and consultation domains. Use of the Selection Panel for evaluation brings an additional level of objectivity and fairness into the Competitive Process.

• The Competitive Process allows for an Honorarium to be paid to each Proponent who has submitted a compliant RFP Submission, but was not selected as the Preferred Proponent; this provides some financial relief for Proponents and encourages continued participation in the Competitive Process.

• The Competitive Process allows for bid price adjustments to accommodate specific uncertainties beyond the Proponents’ control. This
minimizes the need for Proponents to include risk premiums in their bid prices and is intended to keep bids competitive.

- The Competitive Process includes incentives tied to delivering the facilities on a timely basis.
- An independent Fairness Advisor will oversee the Competitive Process to ensure the process was conducted in accordance with the Competitive Process approved by the Commission.

13. Other Related Considerations

52. A Successful Proponent in the Competitive Process will own a transmission facility and will generally be subject to applicable legislated obligations including for example, those under Section 39 of the Electric Utilities Act and the AESO’s applicable authoritative documents such as ISO rules and Alberta Reliability Standards. However, the owner of a transmission facility developed in accordance with the Competitive Process is effectively not a “rate regulated” entity, and as such certain legislated requirements cannot apply to it. Specific legislation and its application in the context of the Competitive Process are discussed below.

ISO Tariff

53. Section 30(2)(a) of the Electric Utilities Act prescribes that tariff rates to be charged by the AESO must be sufficient to recover, *inter alia*, the amounts to be paid under the approved tariff of the owner of each transmission facility, and any other prudent costs and expenses that the Commission consider as appropriate.

54. Subsection 24.2(4) of the Transmission Regulation prescribes that once a Competitive Process is approved by the Commission, it must consider any resulting arrangements as prudent. It follows that the costs and expenses of an arrangements, resulting from the Competitive Process approved by the Commission, are prudent and are to be flowed through to the ISO tariff. As such, the AESO will include the costs and expenses of any such arrangements in the ISO tariff, similar to the inclusion of other approved costs. Such costs will be recovered, in conjunction with other “wires costs”, through system access service charges to market participants.

TFO Tariff

55. Section 37(1) of the Electric Utilities Act requires each owner of a transmission facility to submit to the Commission for approval a tariff setting out the rates for the use of its transmission facility. In the case of a Successful Proponent of the Competitive Process, these rates are established by the commercial arrangements resulting from the Competitive Process, which the Commission must consider prudent.

56. Any submission made by the Successful Proponent pursuant to Section 37(1) of the Electric Utilities Act, comprising rates that reflect the payments or other arrangements established in the Commercial Agreements resulting from the Competitive Process, must therefore be accepted by the Commission as filed. It follows that Sections 25 and 26 of the Transmission Regulation are not applicable to an owner of a transmission facility who is the Successful Proponent in the Competitive Process, as the cost information addressed therein would not
be required for the Commission to consider the rates. As well, Section 122(1) of the Electric Utilities Act and Section 42 of the Transmission Regulation would not apply given there is no further consideration of a tariff application of the owner of a transmission facility who is the Successful Proponent in the Competitive Process.

Recovery of Other Costs

57. The nature of the costs addressed in Sections 40(1) and 41(1) of the Transmission Regulation would be reflected in the commercial arrangements that are an outcome of the Competitive Process. Such costs would therefore be included in the payments to the owner of a transmission facility who is the Successful Proponent in the Competitive Process, and recoverable in the ISO Tariff.
Appendix 1

to the AESO Competitive Process Application
COMPETITIVE PROCESS

PART 1
INTRODUCTION

Competitive Process
1. The Competitive Process is comprised of the following:
   (a) This Competitive Process document; and
   (b) Schedules 1-8, inclusive, attached hereto as follows:
      (i) Schedule 1, Request for Expressions of Interest Outline;
      (ii) Schedule 2, Request for Qualifications Outline;
      (iii) Schedule 3, Request for Proposals Outline;
      (iv) Schedule 4, Proponent Agreement Outline;
      (v) Schedule 5, Project Development Agreement Outline;
      (vi) Schedule 6, Project Agreement Outline;
      (vii) Schedule 7, Defined Terms; and
      (viii) Schedule 8, Adjustment Methodologies in the CP Project Agreements.

Conflicts
2. In the event of a conflict between a provision of this Competitive Process document and any Schedule, the provision in this Competitive Process document prevails.

Variation
3. The Schedules are provided as outlines of the respective documents only. The ISO may, as it deems appropriate with respect to a Project being implemented pursuant to the Competitive Process, vary or refrain from using any of the Schedules.

PART 2
INTERPRETATION

General
4. In the Competitive Process:
   (a) tables of contents, section headers and the use of underlining and italicizing are not a part of the Competitive Process but are inserted for convenience of reference only;
   (b) words in the singular include the plural and words in the plural include the singular;
   (c) words importing male persons include female persons, words importing female persons include male persons and words importing either sex include corporations;
(d) the provisions of the Competitive Process will be construed as always speaking and will be applied to circumstances as such circumstances arise;

(e) "may" is to be construed as permissive and empowering and "must", "shall" and "will" are to be construed as imperative; and

(f) all references to a time of day in the Competitive Process mean mountain standard or mountain daylight time in the Province of Alberta, whichever is in effect on the day in question.

Definitions

5. In the Competitive Process:

(a) words and phrases in bold type have the meanings given to them in the Glossary; and

(b) capitalized terms have the meanings given to them in Schedule 7.

PART 3
PROJECT COMMENCEMENT

Notice of Projects

6. The ISO may commence a Project for implementation pursuant to the Competitive Process by giving a notice in that regard on the AESO website at which time the Competitive Process will be deemed open.

PART 4
COMPETITIVE PROCESS STAGES

Description

7. The ISO may proceed with the implementation of the Competitive Process for a Project in accordance with the stages described in sections 8, 9 and 10 and otherwise in this Competitive Process document.

Request for Expressions of Interest Stage

8. The ISO may proceed with the Competitive Process for a Project by implementing a Request for Expressions of Interest stage, generally in accordance with the structure outlined in Schedule 1 to this Competitive Process document.

Request for Qualifications Stage

9. The ISO will proceed with the Competitive Process for a Project by implementing a Request for Qualifications stage, generally in accordance with the structure outlined in Schedule 2 to this Competitive Process document.
Request for Proposals Stage
10. The ISO will proceed with the Competitive Process for a Project by implementing a Request for Proposals stage, generally in accordance with the structure outlined in Schedule 3 to this Competitive Process document.

PART 5
FAIRNESS ADVISOR

Appointment
11. Prior to the RFQ Commencement Date for a Project, the ISO will appoint a Fairness Advisor for such Project.

Duties
12. The duties and responsibilities of the Fairness Advisor are set out in Schedules 2 and 3 and without restricting the generality of such duties and responsibilities, include determining whether the Competitive Process for a Project has proceeded in a:
   (a) manner consistent with the Competitive Process; and
   (b) fair and transparent manner.

Fairness Report
13. Upon the completion of the Competitive Process for a Project, the ISO will give a notice on the AESO website regarding the fairness report prepared and delivered by the Fairness Advisor in accordance with Schedules 2 and 3.

PART 6
SELECTION PANEL

Appointment
14. Prior to the RFQ Commencement Date for a Project, the ISO will appoint a Selection Panel.

Duties
15. The evaluation processes set out in Schedules 2 and 3 will be carried out by a Selection Panel which will make recommendations to the ISO based on its findings.

PART 7
RFQ SUBMISSION AND RFP SUBMISSION EVALUATIONS AND COMMERCIAL AGREEMENTS

Evaluations
16. Subject to section 17, the ISO will evaluate:
(a) all RFQ Submissions in accordance with the evaluation criteria in the Request for Qualifications to determine which Respondents have qualified and been selected to become Proponents; and

(b) all RFP Submissions in accordance with the evaluation criteria in the Request for Proposals to conditionally select the Preferred Proponent.

17. The ISO may refuse to evaluate an RFQ Submission or RFP Submission if the ISO determines that the RFQ Submission or RFP Submission does not comply in any material respect with the RFQ Submission or RFP Submission requirements.

Commercial Agreements

18. Subject to sections 9 and 10, the Respondents, Proponents, conditionally selected Preferred Proponent, Preferred Proponent and Successful Proponent in respect of a Project will be required, as appropriate, to execute one or more of the Commercial Agreements, the basic structures of which are described in Schedules 4, 5 and 6.

Notice of Evaluation Results

19. The ISO will give notice to:

(a) each Respondent in accordance with the Request for Qualifications informing the Respondent whether it has qualified and been selected as a Proponent; and

(b) each Proponent in accordance with the Request for Proposals informing the Proponent whether it has been conditionally selected as the Preferred Proponent.

20. The Competitive Process for a Project will remain open until the conditionally selected Preferred Proponent has posted the CP Financial Security and executed and delivered to the ISO the initial CP Project Agreement for the Project at which time:

(a) the conditionally selected Preferred Proponent will become the Preferred Proponent; and

(b) the Competitive Process for a Project will be closed.
PART 8
SELECTION OF PREFERRED PROPONENT

Initial CP Project Agreement and CP Financial Security

21. The conditionally selected Preferred Proponent must post the CP Financial Security and execute and deliver to the ISO the initial CP Project Agreement for a Project in accordance with the Request for Proposals.

Disqualification of Conditionally Selected Preferred Proponent

22. If the conditionally selected Preferred Proponent does not post the CP Financial Security, or execute and deliver to the ISO the initial CP Project Agreement referenced in section 21, or both, by the date specified in the Request for Proposals, the ISO may disqualify the conditionally selected Preferred Proponent.

Notification of Preferred Proponent

23. The ISO will give a notice in accordance with the Request for Proposals specifying the name and address of the Preferred Proponent as soon as reasonably practicable after the Preferred Proponent has posted the CP Financial Security and executed and delivered to the ISO the initial CP Project Agreement.

PART 9
EXCEPTION TO REQUEST FOR PROPOSALS STAGE AND PROPONENT DISQUALIFICATION

Exception to Request for Proposals Stage

24. The ISO will not issue a Request for Proposals if there are less than two (2) Respondents who have qualified and been selected for participation in the Request for Proposals stage.

25. If under section 24 the ISO determines that the Request for Proposals will not be issued then the ISO may proceed under sections 30-32.

Proponent Disqualification

26. If a conditionally selected Preferred Proponent is disqualified in accordance with section 22, the ISO may either:
(a) select another Proponent as the conditionally selected Preferred Proponent; or
(b) proceed under section 30-32.

PART 10
PARTICIPANT WITHDRAWAL

Discretion to Withdraw

27. A Participant may at any time withdraw from the Competitive Process for a Project by delivering a notice of withdrawal to the ISO, but once a Participant has withdrawn it is prohibited from any further form of participation in the Competitive Process for such Project.

Continued Participation In Other Projects

28. If a Participant withdraws from the Competitive Process for a Project, the ISO may allow such Participant to participate in a Competitive Process for any other Project.

Forfeiture of Financial Security Upon Withdrawal

29. If a Proponent or conditionally selected Preferred Proponent withdraws from the Competitive Process for a Project under section 27, then the form and amount of CP Financial Security posted by the withdrawing Proponent or conditionally selected Preferred Proponent is forfeited.

PART 11
CANCELLATION OF THE COMPETITIVE PROCESS FOR A PROJECT

ISO Right to Cancel

30. The ISO may cancel the Competitive Process for a Project if it determines that any one or more of the following events has occurred:

(a) the ISO does not receive any compliant RFQ Submissions;
(b) there are less than two (2) Respondents who have qualified and been selected for participation in Request for Proposals stage;
(c) the ISO does not receive any compliant RFP Submissions;
(d) the conditionally selected Preferred Proponent withdraws or is disqualified by the AESO;
(e) all Proponents withdraw; or
(f) any other events the ISO considers appropriate in the circumstances.
Cancellation Procedures

31. The ISO will give a cancellation notice as soon as reasonably practicable once it has made the determination to cancel the Competitive Process for a Project.

A Second Competitive Process

32. The ISO may determine to commence a second Competitive Process, in whole or in part for a Project, despite initial cancellation under section 31.

CP Financial Security Upon Cancellation

33. Subject to section 35, a Proponent will not forfeit its CP Financial Security upon the occurrence of an event described in subsection 30(b).

34. Subject to section 35, the ISO may require a Proponent or conditionally selected Preferred Proponent to forfeit its CP Financial Security upon the occurrence of an event described in subsections 30(c), (d), (e) or (f).

35. The Request for Qualifications or Request for Proposals may contain provisions which vary or elaborate upon the circumstances and conditions governing CP Financial Security forfeiture in whole or in part.

PART 12
DISQUALIFICATION

Disqualification Events

36. The ISO will disqualify a Respondent, Proponent or Preferred Proponent by notice to such person if such person engages in any act described in section 37.

37. An act of disqualification includes:

(a) a material breach of the terms and conditions of a Request for Qualifications or a Request for Proposals or any provision of the Competitive Process;

(b) a submission of false or misleading information to the ISO in an RFQ Submission or RFP Submission;

(c) a material misrepresentation of any information provided in an RFQ Submission or RFP Submission;

(d) evidence of collusion with any one or more other Respondents or Proponents in the preparation or submission of an RFQ Submission or RFP Submission;

(e) evidence of anti-competitive behaviour with respect to the Competitive Process for a Project; or

(f) such other events or circumstances that may negatively affect the competitive nature of the Competitive Process for a Project in whole or in part.
COMPETITIVE PROCESS
SCHEDULE 1
REQUEST FOR EXPRESSIONS OF INTEREST OUTLINE

Information Provided to Interested Parties

1. Introduction
   (a) **Purpose of Request for Expressions of Interest** – A brief summary of a Project (see section 2 below) and an explanation of why a Request for Expressions of Interest is being issued will be provided in "Executive Summary" format.
   (b) **Details of Information Meeting** – The AESO will consider holding a public information meeting for Interested Parties to explain the Competitive Process and Project. If a meeting will be held, the details concerning location, timing and agenda for the meeting will be provided.
   (c) **Primary objectives of the Competitive Process and Project** – Primary objectives for the Competitive Process and Project will be described at a high level, and may include reference to the following:
      (i) optimization of whole life cycle costs through the use of competitive pricing;
      (ii) creation of opportunity for increased innovation throughout the life cycle of a Project;
      (iii) creation of opportunity for new market entrants;
      (iv) allocation of risk to the party best able to manage that risk and to efficiently and effectively reduce costs;
      (v) encouragement of efficient investment, operation and maintenance of assets throughout the life cycle of a Project; and
      (vi) timely completion of the Competitive Process and Project.
   (d) **Administration of the Process** – The AESO will provide a brief explanation of the important, separate roles that each of the AESO and the Commission will play in the review and award of a Project and the costing and compensation by tariff associated with Project execution.

2. The Project

Background to the Project

   (a) **Legislative Mandate** – The AESO will describe the legislative mandate to undertake a competitive process for certain transmission facilities.
   (b) **Additional sources of information for a Project** – This AESO will direct potentially Interested Parties to sources of information relevant to a Project and the Competitive Process including AESO and Commission websites and other relevant publications and outcomes of stakeholder consultation.
(c) **Proposed scope of a Project** – The AESO will provide a description of the scope of a Project in the Request for Expressions of Interest which will include:

(i) the Scope of Work;

(ii) a description of any work to the interconnected electric system in contemplation of a Project or which directly or indirectly affects the development of a Project;

(iii) the start and end points of a Project route, high-level technical requirements and estimated in-service dates;

(iv) the identities and roles of the entities and key individuals undertaking administration of the Competitive Process, including the AESO and its advisors and consultants; and

(v) the proposed Project schedule.

(d) **Overview of the commercial structure** – The AESO will provide Interested Parties with a basic understanding of the commercial basis of a Project.

### Information Requested from Interested Parties

#### 3. Submission Requirements

(a) **Contact Person** – Each Interested Party will be required to provide contact information for an individual responsible for all communications with the AESO during the Request for Expressions of Interest stage.

(b) **REOI Response Requirements** - Each Interested Party will be requested to provide information about itself and indicate its envisioned role in a Project or a portion of a Project or in the provision of certain goods or services in respect of a Project.

#### 4. Request for Expressions of Interest Procedures & Schedule

The Request for Expressions of Interest will include detailed provisions governing:

(a) the form, content, and delivery method and timing of REOI Responses;

(b) the procedure and format for, and confidentiality of, any communication, enquiry or request for information in respect of the Request for Expressions of Interest or a Project, including the communication of any clarifications in documents relating to a Project or the Competitive Process, forwarded by an Interested Party to the AESO;

(c) with the exception of those parties acting as contractors or advisors to the AESO (as identified by the AESO), the parties who may submit REOI Responses;

(d) an explanation that, following the AESO's receipt of REOI Responses, and unless a party requests that its interest be held in confidence by the AESO, the AESO will inform Interested Parties of the number, names, contact information, and proposed role of all Interested Parties for a Project;
(e) that REOI Responses will become the property of the AESO upon delivery to the AESO;

(f) that costs incurred in preparing an REOI Response will be borne entirely by the Interested Party unless otherwise stipulated in the Request for Expressions of Interest; and

(g) that nothing contained in the Request for Expressions of Interest or any REOI Response is intended to be binding on either the AESO or any Interested Party.
COMPETITIVE PROCESS
SCHEDULE 2
REQUEST FOR QUALIFICATIONS OUTLINE

Information Provided to Respondents

1. **Introduction** – The AESO will describe the purpose and objectives of the particular Request for Qualifications, and provide general background information and objectives for a Project. Applicable references to the Provincial Energy Strategy and the *Electric Statutes Amendment Act* will be provided to familiarize Respondents with the regulatory and administrative framework of Alberta’s electric industry. This will include references to applicable legislation such as the *Electric Utilities Act*, the *Transmission Regulation*, and the *Hydro Electric and Energy Act*. The land rights regime that may be relevant to a Project, and any relevant legislative and regulatory environmental regimes will also be identified. A brief description of the development of the Competitive Process including previous stakeholder consultations, and applications to and approvals from the Commission may be provided. References to publicly available documents relevant to a Project will be incorporated into the Request for Qualifications.

2. **The Project** – The description of a Project provided in a Request for Qualifications will include:
   
   (a) a Scope of Work;
   
   (b) a description of any work to the interconnected electric system in contemplation of a Project or which directly or indirectly affects the development of a Project;
   
   (c) the start and end points of a Project route, high-level technical requirements and estimated in-service dates;
   
   (d) the identities and roles of the entities and key individuals undertaking administration of the Competitive Process, including the AESO and its advisors and consultants;
   
   (e) the proposed Project schedule; and
   
   (f) a copy of the draft CP Project Agreements for a Project.

Information Requested from Respondents

3. **Request for Qualifications Requirements**

   (a) **Form and Content of RFQ Submission**

   The Request for Qualifications will provide a detailed description of the form and content required for RFQ Submissions. The required content of the RFQ Submission will include the Respondents’ ownership and organizational structure (including contact information for a team lead, and, if the Respondent is a consortium, the identity and a description of its members and the specialized role each member is expected to play within the consortium, the identity and contact information of the entity, and the individual acting on behalf of the entity leading the consortium), management and operational experience, regulatory experience, technical record and capability, financial viability and capability,
innovation, cost optimization experience, and ability to undertake consultation and manage stakeholder relationships.

(b) Proponent Agreement

As a pre-condition to further involvement in the Competitive Process, each Respondent will be required to execute and deliver with its RFQ Submission a form of Proponent Agreement (see Schedule 4). The Proponent Agreement obliges the Respondent to:

(i) continue in good faith in the Competitive Process if selected as a Proponent by the AESO;

(ii) commit to non-reliance on exclusivity arrangements or ownership or other interests in respect of land that may form part of any (Commission approved) Project routing, and to assign such rights to the Preferred Proponent at "market rates" in the event of selection of another party as Preferred Proponent;

(iii) deliver the Proponent Security; and

(iv) submit a compliant RFP Submission.

(c) Receipt Confirmation and Confidentiality Agreement

Prior to receiving access to any data room and/or further information with respect to a Project, each potential Respondent will be required to execute a receipt of confirmation in the prescribed form, confirming the Respondent's receipt of the Request for Qualifications, and a confidentiality agreement obliging the Respondent to retain in confidence any proprietary information provided by the AESO in respect of a Project.

4. RFQ Evaluation Process

The AESO will, when assessing RFQ Submissions, have the right to make any inquiries, reviews and conduct reference, credit or other checks, or request from a Respondent such information as the AESO deems necessary to complete its assessment.

The AESO will evaluate the RFQ Submissions on the basis of combined pass / fail and scored criteria. A Respondent will not be short-listed as a Proponent if it does not meet all pass / fail criteria. Respondents who meet all pass / fail criteria and attain the highest scores in the scored criteria will be short-listed as Proponents. Selection criteria will be provided in the Request for Qualifications in the form of a scoring matrix. Whether any particular selection criteria is assessed on a pass / fail or scored basis will depend on the nature of a Project. Selection criteria may include:

(a) Ownership and Organizational Structure – A Respondent will be required to demonstrate its legal standing and how it proposes to be structured for a Project, including the identities and roles of all of the Respondent's nominated key individuals. If the Respondent is a consortium, it will be required to provide detailed information on the consortium ownership structure, roles and responsibilities of consortium members and any relationships with parent companies, a description of the consortium’s performance record as a whole and in respect of
projects similar to the Project, and, as applicable, the performance record of the consortium’s members in respect of projects similar to the Project. The AESO will make an assessment of the Respondent’s capability to deliver the Project from an organizational and consortium arrangement perspective, based on:

(i) the Respondent’s experience working on projects similar in scope and climate and its capacity to assemble and manage a team that will integrate required expertise for the overall benefit of the specific Project;

(ii) the relevant competitive procurement experience, capacity and availability of the Respondent’s nominated key individuals;

(iii) the Respondent’s ability to meet the Project schedule; and

(iv) the Respondent’s understanding of the Project.

(b) **Financial Viability and Capability** – A Respondent will be required to demonstrate that it is financially viable and has the financial capacity to obtain the necessary

(i) debt financing,

(ii) equity contributions, and

(iii) security

to ensure, as applicable, completion of the Scope of Work throughout the term of a Project. The Respondent’s proposed financing plan for a Project will be reviewed, as will its financial statements and past financial experience and performance with respect to similar projects.

The AESO will make an assessment of the Respondent’s capability to finance a Project, based on:

(i) the Respondent’s financial capacity;

(ii) the financing experience of the Respondent; and

(iii) the financing plan proposed for a Project.

(c) **Technical Record and Capability** – A Respondent will be required to demonstrate that it has appropriate experience, management and technical capabilities as applicable, to develop, own, finance, operate and maintain critical infrastructure assets of similar magnitude and complexities to a Project. The AESO will make an assessment of the Respondent’s capability to deliver a Project based on:

(i) the Respondent’s approach to project design that will optimise capital expenditure and long-term major maintenance costs;

(ii) the Respondent’s experience and capacity to assemble and manage the following teams that have the applicable experience and expertise:

   (A) design;

   (B) construction; and
(C) operations, maintenance and major maintenance;

(iii) the Respondent’s experience and capacity to meet or exceed a Project schedule;

(iv) the Respondent’s experience and capability in integrating design and construction with ongoing operations and maintenance to minimize life-cycle costs;

(v) the experience and capacity of the Respondent’s nominated key individuals on the design, construction and operations, maintenance and major maintenance teams;

(vi) the Respondent’s experience and capacity to acquire or otherwise obtain land rights required for a Project; and

(vii) the Respondent’s experience and capacity to obtain required permits and licences.

(d) Consultation and Relationship Management and Development – The AESO will assess the Respondent’s proposed consultation and stakeholder relationship management plan for a Project and the Respondent’s experience and demonstrated ability to undertake and implement such plan in respect of projects similar to a Project, including the Respondent’s plans for relationships with affected landowners, First Nations, Métis and other potentially-affected stakeholders.

(e) Innovation and Cost Optimization – The AESO will assess whether any innovative features for a Project, or examples of innovation on prior projects, included in the Respondent’s RFQ Submission are indicative of an ability to add value to a Project, and are of benefit to the AESO.

5. Selection Process

Any Interested Party not prohibited from participating in the Competitive Process due to a Conflict of Interest, will be eligible to participate in the Request for Qualifications. The Request for Qualifications will include a high-level description of the Request for Proposals stage and the process for negotiating the CP Project Agreements for a Project. The AESO will also identify and provide any CP Agreements Respondents are required to execute at the Request for Qualifications stage and details of the Proponent Security, if any, that Respondents are required to provide, should they qualify for participation in the Request for Proposals stage.

The Request for Qualifications evaluation and selection process for determining a short list of Proponents to participate in the Request for Proposals, will be described in detail by the AESO. Those Respondents selected as Proponents may be entitled to payment of a specified amount as an Honorarium after the Preferred Proponent has executed the initial CP Project Agreement, payable on the conditions that the Proponent has:

(a) submitted a compliant RFP Submission;

(b) not been selected as the Preferred Proponent;

(c) not been deemed ineligible;
(d) delivered an executed release and waiver in the prescribed form; and  
(e) submitted an invoice for the Honorarium within the prescribed time period.  

The factors that will be considered in determining the value of the Honorarium will include the following:  
(a) the monetary value of a Project;  
(b) the complexity of a Project;  
(c) the expected costs incurred in developing an RFP Submission for a Project; and  
(d) the value of honorariums used in other infrastructure projects subject to competitive process, i.e., Public Private Partnerships.  

The Request for Qualifications will confirm the time and location of any meetings and a timeline for the entire Competitive Process for a Project.  

6. **Selection Panel**  

Each panel comprising the Selection Panel will consist of three members with expertise in one of the three domains. After establishing the panels the AESO will select one member from each panel as the senior member of that panel and one member as the senior representative of the Selection Panel.  

Panel members will individually evaluate and score RFQ Submissions in respect of their domain. After completing the evaluation and scoring, panel members for each domain will convene and review the evaluations and scoring and identify the selected Respondents at the Request for Qualifications stage. After all panels have completed their evaluations and scoring, the panels will meet for the purpose of recommending the selection of Proponents.  

The role of the senior member of each panel or the senior representative of the Selection Panel is to facilitate discussion and identification of the selected Proponents.  

7. **Request for Qualifications Administrative and Other Matters**  

The Request for Qualifications will include detailed provisions with respect to the following:  
(a) form, content, and delivery method and timing of RFQ Submissions;  
(b) any substitutions or changes to the Respondent’s team;  
(c) the Respondent’s right to revise its RFQ Submission prior to the closing time for acceptance of RFQ Submissions;  
(d) the costs incurred in preparing an RFQ Submission being borne entirely by the Respondent unless otherwise stipulated in the Request for Qualifications;  
(e) the availability, location and terms of use of relevant information, guidelines, standards, specifications and Project updates, including the location and terms of use of any data room, in electronic or other format, if utilized;
(f) the procedure and format for, and confidentiality of, any communication, inquiry or request for information in respect of the Request for Qualifications or a Project, including the communication of any clarifications in documents relating to a Project or the Competitive Process, forwarded by a Respondent to the AESO;

(g) that the AESO will not be liable for reliance by a Respondent on any information provided by the AESO to the Respondent and used by the Respondent in preparing its RFQ Submission, except for information provided in the functional specification for a Project;

(h) that the AESO will have the right to amend, cancel, or postpone the Request for Qualifications or other stages of the Competitive Process at any time, in whole or in part;

(i) that the AESO will have the right to reject, evaluate or consider, or to disqualify any or all non-compliant RFQ Submissions, or to waive a non-material non-compliant RFQ Submission as it deems appropriate in the circumstances;

(j) that any liability of the AESO for the Request for Qualifications stage or the evaluation of RFQ Submissions and selection of Proponents, will be restricted and subject to monetary limits;

(k) that RFQ Submissions will become the property of the AESO upon delivery to the AESO, and will, subject to Applicable Law, be held in confidence by the AESO. The AESO will take all reasonable steps to prevent commercially sensitive information from being released under Applicable Law;

(l) that Respondents will be prohibited from engaging in certain behaviour during the period from the publication of the Request for Qualifications until RFQ Submission, including publication of the Respondent’s involvement (except as required under Applicable Law or otherwise approved by the AESO), lobbying for qualification as a Proponent, and communication or collusion with other Respondents;

(m) that Respondents will be prohibited from entering into consortia or other relationships with certain restricted parties (typically those acting for the AESO) that would result in a Conflict of Interest. The Request for Qualifications will identify certain restricted parties, and provide a mechanism for the review of any relationships which potentially create such a Conflict of Interest;

(n) that the AESO will retain a Fairness Advisor to observe and report upon the evaluation and selection process under the Request for Qualifications for a Project. The Fairness Advisor will consider whether the Request for Qualifications has proceeded in a manner consistent with the Request for Qualifications processes, and in a fair and transparent manner. The Fairness Advisor will have full access to all documents and information related to the evaluation and selection process and other activities associated with the Request for Qualifications;

(o) unless otherwise specified in the Request for Qualifications or otherwise agreed to by the Respondents and the AESO, the assignment to the
AESO of all intellectual property rights associated with an RFQ Submission upon delivery of the RFQ Submission to the AESO;

(p) any Respondent being provided the opportunity to discuss with the AESO the strengths and weaknesses of that Respondent's RFQ Submission relative to the evaluation criteria; and

(q) a prescribed dispute resolution process.
COMPETITIVE PROCESS
SCHEDULE 3
REQUEST FOR PROPOSALS OUTLINE

Information Provided to Proponents

1. Introduction

The AESO will describe the purpose and objectives of the particular Request for Proposals, and provide general background information and objectives for a Project. A brief description of the preceding Request for Qualifications stage as well as a list of the Respondents who were short-listed as Proponents for participation in the Request for Proposals stage will be included in the Request for Proposals.

The Request for Proposals will explain that the Preferred Proponent will enter into one or more CP Project Agreements with the AESO.

The Request for Proposals will outline the Preferred/Successful Proponent’s obligations with respect to:

(a) Communication and Consultation – The Preferred/Successful Proponent will be required to have in place a comprehensive communication strategy for the duration of a Project, setting out management requirements, staffing needs, and proposed methods of intended consultation with landowners, First Nations, Métis, other stakeholders, the public and media.

(b) Safety and Security Management – The Successful Proponent will be responsible for ensuring that Project construction and operations and maintenance are continuously conducted with safety and security being of paramount concern.

(c) Environmental Management – The Preferred/Successful Proponent will be responsible for:

(i) ensuring that Project development, construction and operations comply with all applicable environmental laws, and

(ii) obtaining and complying with all required environmental approvals, authorizations, and permits required for Project development and operation.

(d) Quality Management – The Preferred/Successful Proponent will conduct all quality control functions necessary in respect of a Project and will implement a quality management system in accordance with the applicable CP Project Agreement.

The Request for Proposals will provide a general summary of the proposed allocation of certain Project risks as between the AESO and the Preferred/Successful Proponent in the form of a risk matrix. Unless expressly identified in the Request for Proposals, all risks associated with a Project that are not otherwise identified as being held by the AESO, will be transferred to the Successful Proponent. The Request for Proposals will also describe those...
mechanisms in the CP Project Agreements that will be used to calculate cost adjustments.

Each Proponent will be responsible for conducting its own due diligence, including any investigations, surveys, studies and assessments (including risk assessments) it deems necessary with respect to a Project.

Notwithstanding the above, for any due diligence activities that require access to land, the AESO will specify the manner in which it will lead activities related to Proponent consultation on land related issues with landowners, First Nations, Métis and other affected stakeholders during the Request for Proposals stage.

2. **The Project**

The description of a Project provided in a Request for Proposals will include a Scope of Work which will include, as applicable:

(a) **Project Development** – setting out the preliminary project design and development responsibilities of the Preferred/Successful Proponent which may include:
   (i) developing the route based upon the start and end points of a Project provided by the AESO;
   (ii) providing high-level technical requirements and the Target ISD;
   (iii) providing a description of any work to the interconnected electric system in contemplation of a Project or which directly or indirectly affects the development of a Project;
   (iv) providing the proposed Project schedule;
   (v) acquiring any required land, Rights of Way or other rights; and
   (vi) obtaining all permits and licenses, regulatory orders and approvals necessary for development, engineering, procurement, construction, operation, maintenance and major maintenance, as applicable, of a Project;

(b) **Engineering/Procurement/Construction** – engineering, procurement and construction of a Project in accordance with the AESO’s specifications, including arrangements to ensure protection, re-location or intersection with other utilities and infrastructure, and coordination with other construction projects or undertakings that may be affected by a Project;

(c) **Project Financing** – responsibility for obtaining necessary financing for a Project;

(d) **Operation and Maintenance** – operation and maintenance requirements (including major maintenance) for a Project;

(e) **End of Life / Asset Condition** – requirements, rights and obligations of the Successful Proponent with respect to the condition of Project Assets at the end of the term; and

(f) **Other** - any other activities deemed necessary by the AESO.
3. Business Arrangements

(a) Business Model / CP Project Agreements – Proposed forms of CP Project Agreements (typically a proposed form of PA (see Schedule 6) and proposed form of PDA (see Schedule 5)) will be issued with the Request for Proposals. Proponents will be provided with an opportunity to provide comments on the proposed form of CP Project Agreements during the preparation of their Proposals, and will receive final forms of the CP Project Agreements prior to the submission date of the RFP Submission. Proponents must submit RFP Submissions on the basis that the CP Project Agreements will be executed in such final form by the AESO and the Preferred Proponent.

Adjustments will be made to account for both changes to the route and the passage of time necessitated by the facility application approval process and will be documented in the relevant CP Project Agreements.

(b) Basis / Timing of Payments – The payment by the AESO to the Successful Proponent will be in the form of a single monthly payment, commencing on the Actual ISD of the Project and may be comprised of:

(i) capital payments of a fixed amount for the repayment of and on all debt and equity, subject to any change mechanisms;

(ii) operations and maintenance payments of a fixed amount increasing incrementally in accordance with an index factor, subject to any change mechanisms;

(iii) major maintenance payments in accordance with an index factor, subject to any change mechanisms; and

(iv) the amount of any payment adjustments or deductions in accordance with section 13 of Schedule 6.

For items (ii) and (iii) above, a schedule will set out a mechanism for determining the index factor which will include a basket of observable indices.

The Successful Proponent will not receive payment for the Project prior to Actual ISD unless permitted in respect of change orders, events of force majeure and certain relief events.

Payments will be subject to adjustments or deductions to reflect changes or penalties where the Successful Proponent has failed to act in accordance with the contractual requirements of the CP Project Agreements.

(c) Holdbacks and Other Performance Security – There may be typical performance related holdback and payment offset provisions in the CP Project Agreements.

(d) Tax – Each Proponent will be responsible for the tax consequences of entering into the CP Project Agreements for a Project.

(e) Insurance Requirements - The Preferred/Successful Proponent will be required to maintain certain mandatory insurance coverage outlined in the CP Project Agreements.
Information Requested from Proponents

4. RFP Submission Preparation

(a) **Overview and Timetable** – The Request for Proposals will outline:
   (i) the process for receiving comments on the proposed forms of CP Project Agreements; and
   (ii) the schedule for technical and financial submissions.

(b) **Affordability Requirements and Baseline Modeling** – The AESO may describe:
   (i) an affordability requirement for a Project, such requirement being an amount determined as the maximum acceptable net present value of such Project; and
   (ii) how the affordability requirement is determined.

(c) **Proponent Consultation Processes** – The AESO may:
   (i) hold meetings to discuss with Proponents the preparation of documentation relevant to its RFP Submission; and
   (ii) require Proponents to meet with representatives of the AESO to provide further explanation, clarification or feedback with respect to such documentation.

5. RFP Submission

(a) **RFP Submission Requirements** – The Request for Proposals will provide a detailed outline of the required form and content of RFP Submissions. While the nature of submissions will vary by Project, an RFP Submission may encompass two (2) or more separate submissions.

   (i) The first submission may include:

   (A) the Proponent’s technical submission which may include:

   (1) proposed routings;
   (2) design reports;
   (3) land acquisition;
   (4) regulatory approval and permitting;
   (5) construction management plans;
   (6) construction schedule;
   (7) safety and emergency plans;
   (8) commissioning plan and schedule to achieve Actual ISD;
   (9) operations and maintenance plans;
   (10) major maintenance plan;
   (11) consultation, relationship management and communications plans;
(12) end of term plans; and
(13) quality management plans;

The Proponent’s technical submission will identify those individuals, or in the event the Proponent is a consortium, the entities, responsible for the different elements of a Project.

Prior to the deadline for receipt by the AESO of Proponents’ finalized technical submissions, there may be a period during which the AESO may request clarification or further information with respect to any Proponent’s initial technical submission; and

(B) the Proponent’s indicative financial submission which may include:
(1) a financial model as detailed in accordance with any financial model specifications;
(2) any changes in the financial standing of the Proponent from that provided in the RFQ Submission.

(ii) The second submission may include:
(A) the Proponent’s final financial offer including a prescribed financial model containing:
(1) a detailed breakdown of Project costs for the Scope of Work;
(2) debt / equity structure;
(3) equity return;
(4) all debt financing costs;
(5) proposed refinancing amounts; and
(6) the Project Development Fee;
(B) a detailed plan for financing (indicative of current market conditions) and refinancing (if required), and the cost of the Proponent’s proposed insurance program; and
(C) all technical information submitted in section 5(a)(i) above.

Each Proponent will provide, as updated from its RFQ Submission, a chart or outline of its proposed corporate structure and organization, contact information for its team lead and, if the Proponent is a consortium, the identity and a description of its members, the specialized role that each consortium member is expected to undertake in a Project, and the identity and contact information of the entity, including the individual acting on behalf of the entity, leading the consortium.

(b) **Comments on the CP Project Agreements** – During the Request for Proposals stage, the AESO will invite Proponents to submit comments on
the proposed forms of CP Project Agreements. The Request for Proposals will prescribe the format and process for submitting such commentary and may provide details with respect to any meetings the AESO intends to hold with Proponents individually or collectively for the purpose of discussing the proposed CP Project Agreements. Proponents will receive final forms of CP Project Agreements prior to the final submission date, and RFP Submission will be made on the basis that formal CP Project Agreements in the final form provided will be executed by the AESO and the Preferred Proponent.

(c) **Performance Security** - The AESO will require Proponents to provide:

(i) Proponent Security which will be released after submission of a compliant RFP Submission and execution of the initial CP Project Agreement by a Preferred Proponent; and

(ii) if a Proponent is selected as the Preferred Proponent, a form of Preferred Proponent Security which secures the Preferred Proponent's obligations:

(A) under any CP Project Agreements executed and in effect prior to Project approval by the Commission; and/or

(B) to reach Commercial Close at which time the Preferred Proponent will execute any final CP Project Agreement with the AESO.

The Preferred Proponent Security will be released by the AESO upon the Preferred Proponent executing a final CP Project Agreement with the AESO.

6. **Selection Process**

(a) **Selection Panel**

Each panel comprising the Selection Panel will consist of three members with expertise in one of the three domains. After establishing the panels the AESO will select one member from each panel as the senior member of that panel and one member as the senior representative of the Selection Panel.

Panel members will individually evaluate and score RFP Submissions in respect of their domain. After completing the evaluation and scoring, panel members for each domain will convene and review the evaluations and scoring and identify the conditionally selected Preferred Proponent at the Request for Proposals stage. After all panels have completed their evaluations and scoring, the panels will meet for the purpose of recommending the conditional selection of the Preferred Proponent.

The role of the senior member of each panel or the senior representative of the Selection Panel is to facilitate discussion and identification of the conditionally selected Preferred Proponent.
(b) **Evaluation Process**

(i) Technical submissions will be evaluated against the technical requirements provided in the Request for Proposals. Assessment may be on a pass/fail basis.

(ii) Indicative financial submissions will be evaluated against the financial requirements provided in the Request for Proposals on a pass/fail basis.

(iii) Only those Proponents submitting technical submissions and indicative financial submissions deemed to be satisfactory by the AESO will be invited to submit a final submission.

(iv) A Proponent’s final submission will typically be evaluated on scored criteria including:

(v) the net present value of all Project costs, excluding financing costs; and

(vi) any other factors which the AESO considers relevant and of which Proponents have been advised and requested to address in their RFP Submissions.

7. **Honorarium**

(a) The AESO may pay a predetermined Honorarium after the Preferred Proponent has executed the initial CP Project Agreement, to the Proponents not selected as the Preferred Proponent if such Proponents have:

(i) submitted a compliant RFP Submission;

(ii) not been deemed ineligible;

(iii) delivered an executed release and waiver in the prescribed form; and

(iv) submitted an invoice for the Honorarium within the prescribed time period.

(b) The factors that will be considered in determining the value of the Honorarium will include the following:

(i) the monetary value of a Project;

(ii) the complexity of a Project;

(iii) the expected costs incurred in developing an RFP Submission for a Project; and

(iv) the value of honorariums used in other infrastructure projects subject to competitive process, i.e., Public Private Partnerships.

8. **Closing Process**

The Request for Proposals will set out a proposed schedule for and terms pursuant to which the CP Project Agreements for a Project will be executed by the Preferred Proponent and the AESO. Execution of a final CP Project Agreement (typically the PA) may be subject to a Preferred Proponent obtaining
necessary regulatory approval for a Project, in which case an initial CP Project Agreement (typically the PDA) may be executed by the Preferred Proponent and the AESO. The PDA would govern the initial development of a Project, including finalization of route, acquisition of required permits, licenses or other approvals, and arrangement of committed financing, prior to execution of the final CP Project Agreement. The PDA would also include provisions for any cost adjustments resulting from a change in Project route, passage of time, and financing, to be incorporated in the final CP Project Agreement for execution at commercial close, and any other conditions precedent to execution of the final CP Project Agreement.

9. Request for Proposals Administrative and Other Matters

The Request for Proposals will include detailed provisions with respect to the following:

(a) form, content, and delivery method and timing of RFP Submissions;
(b) any substitutions or changes to the Proponent’s team;
(c) the Proponent’s right to revise its RFP Submission prior to the closing time for acceptance of RFP Submissions;
(d) the costs incurred in preparing a RFP Submission being borne entirely by the Proponent unless otherwise stipulated in the Request for Proposals;
(e) the availability, location and terms of use of relevant information, guidelines, standards, specifications and Project updates, including the location and terms of use of any data room, in electronic or other format, if utilized;
(f) the procedure and format for, and confidentiality of, any communication, inquiry or request for information in respect of the Request for Proposals, RFP Submissions or a Project, including the communication of any clarifications in documents relating to a Project or the Competitive Process, forwarded by a Proponent to the AESO. The AESO may issue instructions or clarifications in the form of addenda to the Request for Proposals;
(g) that the AESO will not be liable for reliance by a Proponent on any information provided by the AESO to the Proponent and used by the Proponent in preparing its RFP Submission, except for information provided in the functional specification for a Project;
(h) that the AESO will have the right to amend, cancel, or postpone the Request for Proposals or any other stage of the Competitive Process at any time, in whole or in part;
(i) that the AESO will have the right to reject, evaluate or consider, or to disqualify any or all non-compliant RFP Submission, or to waive a non-material, non-compliant RFP Submission as it deems appropriate in the circumstances;
(j) that any liability of the AESO for the Request for Proposals stage or the evaluation of RFP Submissions and selection of the Preferred Proponent, will be restricted and subject to monetary limits;
that RFP Submissions will become the property of the AESO upon delivery to the AESO, and will, subject to Applicable Law, be held in confidence by the AESO. The AESO will take all reasonable steps to prevent commercially sensitive information from being released under Applicable Law;

that Proponents will be prohibited from engaging in certain behaviour during the period from the publication of the Request for Proposals until submission of RFP Submissions, including publication of the Proponent's involvement (except as required under Applicable Law or otherwise approved by the AESO), lobbying for qualification as a Preferred Proponent, and communication or collusion with other Proponents;

that Proponents will be prohibited from entering into consortia or other relationships with certain restricted parties (typically those acting for the AESO) that would result in a Conflict of Interest. The Request for Proposals will identify certain restricted parties, and provide a mechanism for the review of any relationships which potentially create such a Conflict of Interest;

that the AESO will retain an independent Fairness Advisor to observe and report upon the evaluation and selection process under the Request for Proposals for a Project. The Fairness Advisor will consider whether the Request for Proposals has proceeded in a manner consistent with the Request for Proposals processes, and in a fair and transparent manner. The Fairness Advisor will have full access to all documents and information related to the evaluation and selection process and other activities associated with the Request for Proposals;

unless otherwise specified in the Request for Proposals or otherwise agreed to by the Proponents and the AESO, the assignment to the AESO of all intellectual property rights associated with a RFP Submission upon delivery of the RFP Submission to the AESO;

any Proponent being provided the opportunity to discuss with the AESO the strengths and weaknesses of that Proponent’s RFP Submission relative to the evaluation criteria;

a prescribed dispute resolution process;

the Request for Proposals and the Project being governed by the laws of the Province of Alberta; and

time being of the essence in respect of the Request for Proposals.

10. **CP Project Agreements**

The proposed forms of CP Project Agreements will be included as appendices to the Request for Proposals.

11. **Forms**

The Request for Proposals will typically include as appendices, submission forms and instructions in accordance with the requirements of the Request for Proposals, including:

(a) any financial modeling and financing structure requirements;
(b) forms for any required security;
(c) definitions and interpretation; and
(d) Proponent declarations to accompany RFP Submissions.
COMPETITIVE PROCESS
SCHEDULE 4
PROPONENT AGREEMENT OUTLINE

The Proponent Agreement will include the following provisions:

1. **Definitions and Rules of Interpretations**
   This section establishes the definitions and rules of interpretations to be used in the Proponent Agreement.

2. **Legal Obligations**
   The AESO will be under no legal obligation to continue with the Competitive Process. The AESO may choose not to continue with any stage of the Competitive Process; may choose not to accept, review or evaluate RFQ Submissions or RFP Submissions; and may choose not to select a Proponent or a Preferred Proponent. The AESO will deal with all matters related to Conflicts of Interest, and the AESO will have the final and sole discretion on decisions relating to Conflicts of Interest.

3. **Assignment of Exclusivity Arrangements**
   The Respondents will be required to commit to non-reliance on exclusivity arrangements or ownership or other interests in respect of land that may form part of any Project routing, and to assign such rights to the Preferred Proponent at "market rates" in the event of selection of another party as the Preferred Proponent.

4. **Fairness Advisor**
   The AESO will retain an independent Fairness Advisor to observe and report upon the Competitive Process. The Respondent will acknowledge that the Fairness Advisor has final and sole discretion over the contents of its report. The Fairness Advisor will consider whether the Competitive Process for a Project has proceeded in a manner consistent with Competitive Process documentation, and in a fair and transparent manner. The Fairness Advisor will have full access to all documents and information related to the Competitive Process.

5. **Honorarium**
   The AESO may pay a predetermined Honorarium, after the Preferred Proponent has executed the initial CP Project Agreement, to the Proponents not selected as the Preferred Proponent if such Proponents have:
   
   (a) submitted a compliant RFP Submission;
   (b) not been deemed ineligible;
   (c) delivered an executed release and waiver in the prescribed form; and
   (d) submitted an invoice for the Honorarium within the prescribed time period.

   The factors that will be considered in determining the value of the Honorarium will include the following:
(a) the monetary value of a Project;
(b) the complexity of a Project;
(c) the expected costs incurred in developing an RFP Submission for a Project; and
(d) the value of honorariums used in other infrastructure projects subject to competitive process, i.e., Public Private Partnerships.

6. Releases and Waivers

In consideration of the AESO evaluating an RFQ Submission or RFP Submission, the Respondent or Proponent (including all team members) will release all claims it may have against the AESO in respect of the Competitive Process, the specific Project or any evaluation or decision made by the AESO in respect of a RFQ Submission or a RFP Submission. The Respondent or Proponent will also indemnify and hold harmless the AESO against any claims brought by the Respondent or Proponent or others as a result of an act or omission of the Respondent or Proponent.

7. Proponent Security

The Respondent will secure its obligation to participate in good faith in the Request for Proposals stage by the deposit of the Proponent Security. The Proponent Security will typically be in the form of an irrevocable letter of credit in a specific amount. If the Respondent does not deliver the Proponent Security to the AESO within the prescribed period after being informed that it is the intention of the AESO to shortlist the Respondent as a Proponent, then the Respondent will be ineligible to become a Proponent and will not proceed to the Request for Proposals Stage. The Proponent Security will be released to the Proponent:

(a) if the AESO terminates the Competitive Process; or
(b) when the initial CP Project Agreement is executed by a Preferred Proponent.

8. Intellectual Property

All intellectual property submitted by a Respondent or Proponent in either its RFQ Submission or RFP Submission is automatically assigned to the AESO, unless otherwise agreed to by the AESO. The Respondent or Proponent will warrant that it has or will acquire the rights to all intellectual property included in the RFQ Submission or RFP Submission. At no cost to the AESO, the Respondent will grant the AESO a licence for all third party technology included in the RFQ Submission or RFP Submission. If a Respondent is not selected as a Proponent, or if a Proponent is not selected as the Preferred Proponent, then the AESO will grant such Respondent or Proponent a non-exclusive licence to use the intellectual property contained within its RFQ Submission or RFP Submission, or both, as applicable.
9. Notice of Ineligibility

The AESO may give written notice to a Proponent of the Proponent’s ineligibility to participate in the remainder of the Competitive Process in respect of a Project if any of the following events occur or are occurring involving the Proponent:

(a) a fraudulent or illegal act;
(b) lobbying;
(c) collusion or breach of the Conflict of Interest provisions applicable to the Competitive Process;
(d) a resolution is passed or a petition is filed for liquidation or bankruptcy; or
(e) there is an insolvency, an act of bankruptcy is committed, or there is an assignment for the benefit of creditors.

After receiving notice of ineligibility the Proponent is no longer eligible for the Honorarium and the AESO may draw upon such Proponent's Proponent Security.

10. Meetings

The AESO may schedule and conduct meetings to enable communications between the AESO and the Proponents to consider and consult in respect of commercial, technical and other issues relating to the Request for Proposals, the Project, and any CP Project Agreements that may be developed or required in respect of the Project.

The Proponent will:

(a) attend all mandatory meetings designated by the AESO;
(b) observe and comply with the terms of the Proponent Agreement in respect of the meetings; and
(c) before the first meeting, execute an acknowledgement in the prescribed form, acknowledging that the AESO will not be bound by any discussions taking place at such meetings.

11. Non-Binding Nature of Meetings

The content of meeting discussions and consultations shall be non-binding on AESO.

12. Administrative Matters

The Proponent Agreement will:

(a) establish a protocol for all communication between the AESO and the Proponent;
(b) establish a form for all notices issued by the AESO to the Proponents;
(c) outline certain confidentiality obligations and restrictive covenants applicable to the Proponents for the duration of the Competitive Process;
(d) prohibit transfer or assignment of the Proponent Agreement without the express consent of the AESO;
(e) bind each member of a Proponent, if it is a consortium, in the event a member withdraws from being a member of the consortium or the Competitive Process;

(f) provide that the Proponent and each member of the Proponent, if it is a consortium, will be jointly and severally liable for all covenants, liabilities and obligations of the Proponent; and

(g) provide that any new member of a Proponent, if it is or becomes a consortium, shall execute the Proponent Agreement and provide a copy of such agreement to the AESO.

13. Schedules to the Proponent Agreement

A Proponent Agreement will include schedules which address the following:

(a) definitions and rules of interpretation;

(b) the prescribed forms of the acknowledgment and the release and waiver; and

(c) how and in what form Proponents may request additional information from the AESO and how the AESO responds to such requests.
COMPETITIVE PROCESS
SCHEDULE 5
PROJECT DEVELOPMENT AGREEMENT OUTLINE

The PDA will include the following provisions:

1. **Definitions and Rules of Interpretation**
   
   This section establishes the definitions and interpretative provisions to be used in the PDA.

2. **Project Development Responsibilities**
   
   The PDA will identify the responsibilities of the Preferred Proponent for the early development of a Project, and the timeframe within which the Preferred Proponent will undertake the performance of those responsibilities. Key responsibilities of the Preferred Proponent may include:
   
   (a) obtaining permitting and licensing approval from the Commission to construct and operate a Project, including route approval by a prescribed date;
   
   (b) obtaining environmental approvals for the construction and operation of a Project, consistent with Applicable Law;
   
   (c) obtaining other approvals consistent with the nature of a Project;
   
   (d) obtaining financing for a Project; and
   
   (e) undertaking activities required to maintain Project schedule in accordance with Applicable Law.

3. **Preferred Proponent Security**
   
   The Preferred Proponent will secure its obligation to complete the remainder of the Competitive Process in good faith by the deposit of the Preferred Proponent Security. The Preferred Proponent Security will typically be in the form of an irrevocable letter of credit in a specified amount. If the Preferred Proponent does not deliver the Preferred Proponent Security to the AESO within the prescribed period after being informed that it is the intention of the AESO to select the Proponent as the Preferred Proponent, then the Proponent will be ineligible to become the Preferred Proponent. The Preferred Proponent Security will be:
   
   (a) released to the Proponent if the AESO terminates the Competitive Process pursuant to subsection 5(a) or (c) or when the PA is signed; or
   
   (b) drawn by the AESO should the Preferred Proponent fail to fulfill its obligations under the PDA.

4. **PDA Term**
   
   The term of the PDA will commence upon its execution which shall take place shortly after the AESO has notified the Proponent of its selection and the Proponent has provided the Preferred Proponent Security to the AESO. The PDA will terminate upon the earlier of:
(a) a date specified in the PDA (unless extended due to a relief event or an event of force majeure); or

(b) the execution of a PA, which would be preceded by:

(i) Commission issuance of facility application approval;

(ii) the AESO and the Preferred Proponent settling and confirming Final Adjusted Project Costs (determined in accordance with the adjustment mechanisms contained within the PDA); and

(iii) the Preferred Proponent obtaining committed financing (in the event required) for a Project.

The term of the PDA may be extended by mutual agreement of the parties.

5. Termination

(a) Termination for AESO Default or AESO Convenience

The PDA may be terminated for AESO default or AESO convenience, in which case, the Preferred Proponent will transfer for nominal consideration all rights and title of any Project Assets acquired during the PDA term up to and including the date of termination to an entity determined by the AESO. The AESO will then pay the Preferred Proponent a Termination Fee based upon:

(i) those actual costs (including the cost of any debt financing and overheads) reasonably incurred by the Preferred Proponent (up to the amount of the Project Development Fee as identified in the financial model submitted with the Preferred Proponent’s RFP Submission) which are incurred up to and including the termination date; plus

(ii) relevant breakage costs; plus

(iii) an additional fee (intended as an allowance for the Preferred Proponent to recover the costs of its investment) to be negotiated between the parties and finalized prior to the submission of the RFP Submission.

The Preferred Proponent will be required to provide documentation to the AESO to support the expenditures the Preferred Proponent has incurred.

(b) Termination for Preferred Proponent Default

The AESO may terminate the PDA for Preferred Proponent default, in which case, the Preferred Proponent will transfer for nominal consideration all rights and title of any Project Assets acquired during the PDA term up to and including the date of termination to an entity determined by the AESO. The AESO will then pay the Preferred Proponent a Termination Fee, based upon:

(i) the Project Development Fee; less

(ii) the value of the Preferred Proponent Security; less

(iii) any costs the AESO may incur to secure a replacement Preferred Proponent; less

(iv) the cost to complete the PDA activities described in section 2,
provided however that the Termination Fee cannot be a negative amount. The Preferred Proponent will be required to provide documentation to the AESO to support the expenditures the Preferred Proponent has incurred.

(c) **Force Majeure or No Fault Termination**

The PDA may be terminated for an event of force majeure or "No Fault" event, in which case, the Preferred Proponent will transfer for nominal consideration all rights and title of any Project Assets acquired during the PDA term up to and including the date of termination to an entity determined by the AESO. The AESO will then pay the Preferred Proponent a Termination Fee based upon those actual costs (including the cost of any debt financing and overheads) reasonably incurred by the Preferred Proponent (up to the amount of the Project Development Fee as identified in the financial model submitted with the Preferred Proponent's RFP Submission) which are incurred up to and including the termination date.

The Preferred Proponent will be required to provide documentation to the AESO to support the expenditures it has incurred.

6. **Modifications and Change Orders**

A provision will address how modifications to a Project and change orders will be dealt with for the term of the PDA, including:

(a) the initiation of changes by either the Preferred Proponent or the AESO; (b) the updating of Project costs or schedule, or both, to reflect the effect of any change;

(c) the AESO undertaking not to pursue change orders without the consent of the Preferred Proponent that would:

(i) result in a change in Scope of Work of such magnitude that it could reasonably be expected to materially impact financing for a Project or the Preferred Proponent’s ability to perform its responsibilities by prescribed dates; or

(ii) materially or adversely alter the risk profile of a Project; and

(d) the requirement for the Successful Proponent to demonstrate, for any proposed change valued in excess of a prescribed amount, how the impact of such change will represent value for money.

7. **Adjustment Mechanisms**

In the event that the route approved by the Commission differs from the routes in the Preferred Proponent’s RFP Submission, the Preferred Proponent’s Project costs (per its original Project costs as submitted with its RFP Submission) will be updated to reflect route adjustment, timing adjustment and financing adjustment.

Once the Project costs have been updated, the Preferred Proponent will be required to obtain committed financing (in the event required) for a Project. The adjustments will vary by Project and may include the following:
(a) Route Adjustment

The route adjustment may take into account the following factors without double counting:

(i) Length of Route – Proponents will include in their RFP Submission a cost per kilometre ("KM") to account for changes in route length. The relevant costs will be adjusted to reflect the change in the length of the Commission approved route by multiplying the change in route length by the cost per KM included in the RFP Submission.

(ii) Surface/Subsurface Conditions – Proponents will include in their RFP Submission surface and subsurface condition adjustment factors for various surface and subsurface conditions. Proponents will identify the various surface and sub-surface conditions along their proposed route and the relevant costs will be adjusted to reflect the then anticipated conditions associated with the Commission approved route (i.e. the pricing would be adjusted to reflect the distances impacted by the relevant conditions in accordance with the surface and subsurface condition adjustment factors).

(iii) Structures – Proponents will include in their RFP Submissions the number and type of structures (e.g. dead end structures, deflection structures, tangent structures) to be utilized on their proposed route and the cost will be adjusted to reflect the changes in the type and number of structures anticipated for the Commission approved route.

(iv) Land and Right of Way – Adjustment will be necessary to reflect the increase or decrease in land and Right of Way acquisition costs associated with any change in route.

The adjustment mechanism will include a ‘deadband’ such that pricing will not be adjusted within a certain margin of the costs identified in the Preferred Proponent’s RFP Submission, and other caps will apply to recoverability of cost increases beyond the ‘deadband’. For cost decreases beyond the ‘deadband’, the cost savings will reduce the Project costs. There will be no floor on downward adjustments to the Project costs.

For further clarity, there may be no adjustments for any changes within +/- 5% of the Preferred Proponent’s final offer. For any costs beyond the +5%, the monetary value of the route adjustments will be capped at 10% of the change in construction costs. For example, if the route adjustment results in a 15% or greater increase in construction costs the Preferred Proponent will only be able to recover 10% of the construction cost increase.

(b) Timing Adjustment

The timing adjustment may take into account the following factors that are beyond the control of the Preferred Proponent which are associated with the passage of time between the submission of the RFP Submission and receipt of facility application approval:
(i) Inflation (Alberta Component) – RFP Submissions will indicate that portion of construction costs subject to adjustment for inflation in labour rates. The Preferred Proponent’s RFP Submission will be adjusted to reflect the change in Alberta labour rates (using one or more relevant local indices) from the date of submission of the RFP Submission to the date of facility application approval.

(ii) Commodity Prices – RFP Submissions will indicate that portion of construction costs subject to adjustment for changes in commodity prices. The Preferred Proponent’s RFP Submission will be adjusted to reflect the change in commodity prices for the relevant portion of construction costs that are subject to commodity price fluctuation from the date of submission of the RFP Submission to the date of facility application approval.

(iii) Foreign Exchange – RFP Submission will indicate that portion of construction costs subject to adjustment for changes in foreign exchange movements. The Preferred Proponent’s RFP Submission will be adjusted to reflect the change in foreign exchange movements for the relevant portion of construction costs that are subject to foreign exchange fluctuation from the date of submission of the RFP Submission to the date of facility application approval.

Timing adjustment pricing will not be capped.

(c) Financing Adjustment

A Preferred Proponent may be required to run a funding competition to obtain committed finance and update financing costs prior to execution of the PA. The Updated Financing Costs will adjust only the pricing of Project debt to reflect the then current market conditions and will be based on the financing structure identified in the financial model submitted with the Preferred Proponent’s RFP Submission.

Changes to the financing structure will not be permitted unless the Preferred Proponent can demonstrate to the AESO that an alternative financing structure will result in a reduction in the Updated Financing Costs. In the event that the Preferred Proponent can demonstrate such reduction, the Preferred Proponent will be entitled to share in the benefit of the reduction.

Subject to the foregoing, Project costs will be updated in the financial model and reflected in the PA.

8. Bonus Payment

The Preferred Proponent may be entitled to a bonus payment if the Preferred Proponent obtains facility application approval prior to or on the Target Facility Application Approval Date. Any bonuses payable will be recoverable by the Preferred Proponent during the term of the PA as part of its monthly payment.

9. Schedule

The Project Schedule may be amended should a relief event or event of force majeure occur.
10. **Cost Saving Proposals During the PDA Term**

In the event that the Preferred Proponent identifies potential cost savings for a Project, the Preferred Proponent may submit a Preferred Proponent Savings Proposal to the AESO. The Preferred Proponent Savings Proposal will identify and explain the nature of the proposed change that would result in the anticipated savings resulting from the proposed change, and the impact, if any, upon the Project Development Fee. The AESO will provide a response within a specified period. In the event that the AESO accepts the Preferred Proponent Savings Proposal, the AESO will adjust the amount of the Project Development Fee to reflect such change, and the Project cost will be reduced, such that ratepayers share a portion of the savings resulting from the Preferred Proponent Savings Proposal.

In the event that the AESO identifies potential cost savings for a Project, the AESO will require the Preferred Proponent to submit an AESO Savings Proposal to the AESO. The AESO Savings Proposal will identify and explain the nature of the proposed change that would result in the anticipated savings resulting from the proposed change, and the impact, if any, upon the Project Development Fee. The AESO will review the AESO Savings Proposal. In the event the AESO accepts the AESO Savings Proposal, the AESO will adjust the amount of the Project Development Fee to reflect such change, and the Project cost will be reduced, such that ratepayers share a portion of the savings resulting from the AESO Savings Proposal. The percentage of savings accruing to the ratepayers will be greater when resulting from an AESO Savings Proposal than when resulting from a Preferred Proponent Savings Proposal.

11. **Insurance, Damage and Destruction**

A provision will reference an insurance schedule detailing the insurance requirements that a Preferred Proponent must maintain during the term of the PDA. The specific insurance required during the PDA term will be a reflection of the Preferred Proponent’s anticipated activities during such time period.

Related provisions will address:

(a) evidence of insurance (documentation and timeframes) that the Preferred Proponent must deliver to the AESO;

(b) failure of the Preferred Proponent to provide evidence of insurance permitting the AESO to terminate the PDA on grounds of Preferred Proponent default, and permitting the AESO to draw upon the Preferred Proponent Security; and

(c) the Preferred Proponent waiving any right of recourse to the AESO in regard to loss of or damage to Preferred Proponent property.

12. **Force Majeure / No Fault Events**

Force majeure will be defined and include only cataclysmic events such as war, terrorism, epidemic, nuclear explosion, and other events substantially preventing performance. Non-performance of obligations by the Preferred Proponent will not give rise to a Preferred Proponent default termination event if such non-performance is caused by an event of force majeure, in which case:
13. Relief Events

Relief events will be defined to include only circumstances beyond the control of either party such as, discovery of artifacts, or non-project specific labour disruptions in Alberta, or unseasonable weather for extended periods.

Neither the AESO nor the Preferred Proponent can terminate the PDA for failure by the other to fulfill its obligations because of a relief event. The party affected must take all reasonable steps to reduce the effects of the relief event in order to continue to perform its obligations under the PDA, failing which relief will not be available. Depending on the circumstance the PDA may provide relief in the form of additional time or compensation, or both, to complete the Scope of Work, and, in particular:

(a) if the relief event continues for a specified period, the Target Facility Application Approval date or the Target ISD, or both, may be adjusted to account for the relief event;
(b) if the Target ISD is not changed, then the AEO may pay the Preferred Proponent an amount representing costs reasonably incurred by the Preferred Proponent as a result of the relief event to achieve the Target ISD; however such amount will not be paid until after the Actual ISD (except advance payment of such costs may be made by the AEO if those costs cannot reasonably be financed by the Preferred Proponent);

(c) if extraordinary measures might be taken to mitigate or avoid the consequences of a relief event, the Preferred Proponent may propose to the AEO that such measures be taken at the AEO’s expense;

(d) the Preferred Proponent’s costs incurred under subsection 13(b) are only payable to the extent the consequences of the relief event are not covered by insurance;

(e) either party will be responsible for notifying the other party of a relief event including reasonable details of the anticipated effect on the requirements for additional time or compensation to perform the PDA; and

(f) a provision will be included describing how relief event notification must be given and how ongoing communications between the parties during the continuation of the relief event should proceed.

14. Default

Default events will include:

(a) failure to obtain facility application approval by the Target Facility Application Approval Date;

(b) expiration of the PDA; if a PA is not executed within a specified period from the date of execution of the PDA and the term of the PDA has not been extended by mutual agreement;

(c) insolvency, wind-up or dissolution of the Preferred Proponent or if the Preferred Proponent is a consortium, any of its members, or other person who has agreed to guarantee the obligations of the Preferred Proponent or if the Preferred Proponent is a consortium, any of its members; and

(d) failure to obtain financing for a Project.

In the event of default, the AEO may take such remedial action as it considers necessary including realizing on any Preferred Proponent Security.

15. Additional Preferred Proponent Obligations

(a) The Preferred Proponent is obliged to rely on its own investigation and due diligence in fulfilling its obligations under the PDA. Any information provided by the AEO on which the Preferred Proponent is entitled to rely for accuracy and completeness will be identified in writing by the AEO.

(b) The Preferred Proponent must provide to the AEO, in addition to those specified in the technical requirements, certain reports which may include:

(i) a monthly report on progress toward regulatory approvals;
(ii) a monthly report detailing the costs incurred to date and projected costs to complete the PDA and a biannual report updating Project costs based upon changes to the relevant indices;

(iii) in respect of the Preferred Proponent or if the Preferred Proponent is a consortium, any of its members, or other person who has agreed to guarantee the obligations of the Preferred Proponent or if the Preferred Proponent is a consortium, any of its members:

(A) confirmation that there has been no material adverse change to its financial standing; and

(B) copies of its quarterly financial statements and annual financial statements where available;

(iv) periodic reports that may be required by the AESO from time to time; and

The Preferred Proponent will be required to respond in a timely manner to any enquiry reasonably made by the AESO.

(c) The Preferred Proponent will be obliged to keep certain records for specified time periods. The AESO will have certain rights to inspect such records.

(d) The Preferred Proponent will undertake to observe all Applicable Law, safety standards and other requirements.

(e) The Preferred Proponent will be further obliged to do all things specified in the PDA and take such other action as required from time to time by the AESO.

16. Additional AESO Obligations

(a) The AESO will be obliged to do all things set forth in the PDA at the times specified.

(b) The AESO may provide certain assistance to the Preferred Proponent with respect to obtaining those permits, licenses and approvals required for Project development in accordance with the PDA.

17. General Provisions

This section will include provisions with respect to:

(a) prohibition against assignment, subcontracting, and change in ownership without AESO pre-approval;

(b) intellectual property ownership and licensing;

(c) governing law;

(d) designation of contract administration representatives; and

(e) communication regarding matters such as delivery of notices, authority to provide notice, public announcements, confidentiality of information and its use and disclosure.
COMPETITIVE PROCESS
SCHEDULE 6
PROJECT AGREEMENT OUTLINE

The PA will include the following provisions:

1. **Continuity with PDA**
   
   The Successful Proponent will acknowledge that the PA is a continuation of a Project, and that the obligations under the PDA have been completed.

2. **Definitions and Rules of Interpretation**
   
   This section establishes the definitions and interpretative provisions to be used in the PA.

3. **Release of Preferred Proponent Security**
   
   The Successful Proponent will be required to provide Project Security in accordance with the terms of the PA. The Preferred Proponent Security will only be released upon execution of the PA and the delivery of the Project Security to the AESO.

4. **PA Term**
   
   Depending on the specific Project, the term will expire at a specified date after the Target ISD.

5. **Scope of Work**
   
   The PA will:
   
   (a) identify the obligations of the Successful Proponent with respect to the Scope of Work and specify the required asset condition for the end of the term; and
   
   (b) provide that unless expressly identified in the PA, all risks associated with a Project will be transferred to the Successful Proponent.

6. **Design, Engineering, Procurement and Construction of Assets**
   
   The Successful Proponent’s obligations may include:
   
   (a) participating in meetings with the AESO as required;
   
   (b) clarifying the Successful Proponent’s specific responsibilities with the AESO and completing the design, engineering, procurement and construction in accordance with Project requirements;
   
   (c) obtaining the AESO’s consent to changes the Successful Proponent may wish to make to its designs, plans or schedule;
   
   (d) obtaining the required permits and environmental approvals for a Project and complying with Applicable Law;
   
   (e) constructing Project Assets within the Right of Way;
   
   (f) preparing and complying with a remediation plan in the event that the Successful Proponent has fallen behind on its construction schedule;
(g) retaining for the account of the Successful Proponent an independent safety auditor, prior to finalization of the Successful Proponent’s designs, management systems and plans, to perform a safety assessment according to the safety audit plan and prior to Actual ISD;

(h) consulting with representatives of affected landowners, First Nations, Metis, and other potentially affected stakeholders;

(i) within a prescribed time period prior to Actual ISD:
   (i) providing data according to the AESO’s operating policies;
   (ii) notifying the AESO of outstanding work remaining to be completed prior to Actual ISD;
   (iii) procuring an inspection by the independent safety auditor; and
   (iv) providing the AESO with the results of the independent safety auditor’s inspection.

At any point in time during the course of a Project, the AESO or its designate may perform its own quality assurance inspection and notify the Successful Proponent of any deficiencies and concerns. Having regard to any such deficiencies and concerns when satisfied that a Project can be energized the independent safety auditor will issue a recommendation to that effect. This recommendation will constitute certification that the facilities can be energized.

All AESO requirements, in addition to the independent safety auditor’s recommendation, will be a pre-condition to achieving Actual ISD.

7. Financing (In the Event Required)

The Successful Proponent may be responsible for the financing of a Project, in which case the PA will outline the terms of such responsibility.

(a) Direct Lender Agreement

The PA will make reference to a Direct Lender Agreement that the AESO will sign acknowledging the position and rights of lenders. The Direct Lender Agreement may provide that:

(i) the AESO consent to the Successful Proponent granting a security interest to its lenders in any payment, any termination payment or any other payment to be made by the AESO under the PA and that no additional consent is required from the AESO;

(ii) payments may be made directly to the lender in certain circumstances;

(iii) when the AESO is exercising certain step-in rights, the lender may put forward a remedial plan which the AESO will consider;

(iv) the AESO provide the lender, concurrently with the Successful Proponent, with payment calculations, notices of payment adjustment, notices of default and other information;

(v) the lender has the right, but not the obligation to cure or cause to be cured any default by the Successful Proponent;
(vi) the lender may assume the responsibility for carrying out the Successful Proponent's obligations under the PA at any time during which an event of default is subsisting under the Successful Proponent / Project credit agreement, an event of default is subsisting under the PA or both; and

(vii) the lender may, with the AESO's prior consent, assign all rights and obligations to a suitable substitute Successful Proponent.

(b) Refinancing

In the event that refinancing may be required due to the extended term of a Project, the PA may contain provisions providing that the cost or benefit of the first refinancing (including any transaction costs) relating to any outstanding portions of the debt that have terms shorter than the Project term will flow through to the AESO.

8. Operations and Maintenance and Major Maintenance

The Successful Proponent’s obligations will include:

(a) carrying out the operations and maintenance and major maintenance in accordance with the Successful Proponent's plans up to the end of the term;

(b) meeting provincial regulations with regards to maintaining transmission plans; and

(c) reporting on a periodic basis on maintenance performed.

9. Modifications and Change Orders

A provision will address how modifications to a Project and change orders will be dealt with for the term of the PA, including:

(a) initiation of changes by either the Successful Proponent or the AESO;

(b) the updating of Project costs or schedule, or both, to reflect the effect of any change;

(c) the AESO undertaking not to pursue change orders without the consent of the Successful Proponent that would:

(i) result in a change in the Scope of Work of such magnitude that it could reasonably be expected to materially impact financing for a Project or the Successful Proponent’s ability to perform its responsibilities by prescribed dates;

(ii) materially or adversely alter the risk profile of a Project; or

(iii) increase the operations and maintenance so significantly which would materially and adversely affect the Successful Proponent; and

(d) the requirement for the Successful Proponent to demonstrate, for any proposed change valued in excess of a prescribed amount, how the impact of such change will represent value for money.
10. **Asset Condition Upon Expiry**

(a) **Asset Condition Requirements**

At the end of the term, Project Assets must be in the condition prescribed by the AESO.

(b) **Asset Condition Inspections**

Asset condition inspections will be carried out at prescribed intervals jointly by the Successful Proponent and the AESO to assess the work needed to achieve the prescribed asset condition. The Successful Proponent will, at the request of the AESO, retain an independent third party to carry out condition inspections and will incur all associated costs. Alternatively, the AESO may retain an independent third party to carry out condition inspections and will incur all associated costs.

(c) **Procedure Following Inspections**

The Successful Proponent will:

(i) if required to do so by the AESO, prepare and deliver a comprehensive workplan and schedule acceptable to the AESO that will permit the prescribed asset condition to be met upon expiry of the term; and

(ii) continuously provide updates to the AESO as to workplan progress.

The AESO shall be entitled to request security or holdback amounts payable to the Successful Proponent to ensure that prescribed asset conditions are met at the end of the term.

11. **End of Term**

At the end of the term, the AESO will direct that the ownership of the Project Assets be transferred, for a nominal amount, to a designate determined by the AESO pursuant to a competitive process.
12. Payment

(a) Payment Mechanism

The payment by the AESO to the Successful Proponent will be in the form of a single monthly payment, commencing on the Actual ISD of a Project and may comprise numerous elements depending on the nature of a Project, including:

(i) capital payments of a fixed amount for the repayment of and on all debt and equity, subject to any change mechanisms;

(ii) operations and maintenance payments of a fixed amount increasing incrementally in accordance with an index factor, subject to any change mechanisms;

(iii) major maintenance payments in accordance with an index factor, subject to any change mechanisms;

(iv) the amount of any payment adjustments or deductions in accordance with section 13.

For items (ii) and (iii) above, a schedule will set out a mechanism for determining the index factor which will include a basket of observable indices.

The Successful Proponent will not receive payment for a Project prior to Actual ISD unless permitted due to change orders, repair of damage, force majeure and certain relief events.

(b) Payment Procedure

The PA will describe the procedure for invoicing and payment, including adjustments for partial months. The parties will agree on a pro forma invoice and timing of delivery of invoicing and supporting documentation.

(c) GST

The AESO is obligated to pay GST. The Successful Proponent must pay any amounts that it is required to pay to the AESO and such additional amount of GST within a prescribed period following receipt of an invoice.

(d) Set-off

The AESO is entitled to set-off amounts due to the Successful Proponent in appropriate circumstances.

(e) Interest on Overdue Payments

The PA will describe the rate of interest and how such interest is calculated on overdue payments.

13. Payment Adjustments

The PA will describe how payments may be adjusted based upon certain criteria to reflect conformance with such criteria. The list of criteria may include:

(a) interconnected electric system availability / reliability;
(b) quality management and environmental, safety and regulatory compliance deficiencies;
(c) failure to provide the required plans, construction reports and updates including the reports set forth in section 17;
(d) failure to make imminent danger repairs;
(e) failure to undertake timely repair of damaged or failed facilities;
(f) failure to interconnect AESO designated customers in a timely manner;
(g) failure to undertake adequate Right of Way maintenance, including vegetation management;
(h) failure to provide in a timely manner information requested by the AESO; and
(i) non-compliance of snow clearing and ice operations.

14. Insurance, Damage and Destruction

An insurance schedule will detail the insurance requirements that the Successful Proponent and its subcontractors are required to maintain during the construction and operating periods.

Standard insurance provisions will address such items as waivers of subrogation and evidence of insurance.

Periodic review and benchmarking will take place to ensure the appropriateness and cost efficiency of the insurance coverage to be reflected in the operations and maintenance payments.

In the event that certain risks become uninsurable or insurance premiums in respect of such risks are commercially unreasonable, a procedure determined by the AESO will address the impact on operations and maintenance payments and response to an event of loss.

15. Force Majeure

(a) General

Force majeure will be defined and include only cataclysmic events such as war, terrorism, epidemic, nuclear explosion, and other events substantially preventing performance. Non-performance of obligations by the Successful Proponent will not give rise to a Successful Proponent default termination event if such non-performance is caused by force majeure, in which case:

(i) the parties affected by such event(s) will be relieved of their obligations under the PA for the period that the event of force majeure continues;

(ii) the Successful Proponent, in consultation with the AESO, would be expected to take reasonable steps to mitigate the effect of force majeure delay and resulting damages (if any);

(iii) if extraordinary measures might be taken to mitigate or avoid the consequences of an event of force majeure, the Successful
Proponent may propose to the AESO that such measures be taken at the AESO’s expense;

(iv) if the consequences of an event of force majeure are significant, the AESO may decide whether to remedy such consequences or terminate the PA. Any decision by the AESO to remedy the consequences will be treated as a relief event;

(v) either party will be responsible for notifying the other party of an event of force majeure including reasonable details of the anticipated effect upon the performance of the PA; and

(vi) a provision will be included describing how event of force majeure notification must be given and how on-going communications between the parties during the continuation of the event of force majeure should proceed.

(b) Construction Period

During the construction period:

(i) if the event of force majeure continues for a specified period, the Target ISD may be adjusted to account for the event of force majeure;

(ii) if the Target ISD is not changed, the AESO may pay the Successful Proponent an amount representing costs reasonably incurred by the Successful Proponent as a result of the event of force majeure to achieve the Target ISD; however, such amount will not be paid until after the Actual ISD (except advance payment of such costs may be made by the AESO if those costs cannot reasonably be financed by the Successful Proponent); and

(iii) the Successful Proponent's costs incurred under paragraph (ii) are only payable to the extent the consequences of the event of force majeure are not covered by insurance.

(c) Operating Period

During the operating period:

(i) no payment adjustments under section 13 will be applicable as long as the relevant performance was prevented by the event of force majeure; and

(ii) if some, or all of the Project Assets are disabled as a result of the event of force majeure, the operations and maintenance payment will be abated proportionately during the period of disruption due to the event of force majeure.

16. Relief Events

(a) General

Relief events will be defined to include only circumstances beyond the control of either party including discovery of artifacts, or non-project specific labour disruptions in Alberta, or unseasonable weather for extended periods. Neither the AESO nor the Successful Proponent may
terminate the PA for failure by the other to fulfill its obligations because of a relief event. Upon the occurrence of a relief event:

(i) the party affected must take all reasonable steps to reduce the effects of the relief event in order to continue to perform its obligations under the PA, failing which relief will not be available;

(ii) the PA may provide, depending on the circumstance, relief in the form of additional time or compensation, or both, to complete the Scope of Work of a Project;

(iii) if extraordinary measures may be taken to mitigate or avoid the consequences of a relief event, the Successful Proponent may propose to the AESO that such measures be taken at the AESO’s expense;

(iv) a provision will be included describing how relief event notification must be given and how on-going communications between the parties during the continuation of the relief event should proceed.

(b) Construction Period

During the construction period:

(i) if the relief event continues for a specified period, the Target ISD may be adjusted to account for the relief event;

(ii) if the Target ISD is not changed the AESO may pay the Successful Proponent an amount representing costs reasonably incurred by the Successful Proponent as a result of the relief event to achieve the Target ISD; however, such amount will not be paid until after the Actual ISD (except advance payment of such costs incurred by the Successful Proponent may be made by the AESO if those costs cannot reasonably be financed by the Successful Proponent);

(iii) the Successful Proponent's costs incurred under paragraph (ii) are only payable to the extent the consequences of the relief event are not covered by insurance.

(c) Operating Period

During the operating period:

(i) no payment adjustments under section 13 will be applicable as long as the relevant performance was prevented by the relief event; and

(ii) if some, or all of the Project Assets are unavailable as a result of the relief event then the operations and maintenance payment will be abated proportionately during the period of disruption due to the relief event.
17. Successful Proponent Representations and Obligations

(a) Successful Proponent Representations

The Successful Proponent will be required to provide standard representations including:

(i) the Successful Proponent's organizational structure and due authority; and

(ii) reliance on the Successful Proponent's own investigation and due diligence in fulfilling its obligations under the PA. Any information provided by the AESO on which the Successful Proponent is entitled to rely for accuracy and completeness will be identified.

(b) Reporting Requirements

The PA will specify all reports the Successful Proponent must provide to the AESO in addition to those specified in the technical requirements, which may include:

(i) a monthly report detailing the progress and costs incurred to date and projected costs to complete Project construction;

(ii) monthly and annual reports during the operating period referencing payment adjustment criteria in accordance with section 13 and other material events relating to operations and maintenance;

(iii) an annual report summarizing major maintenance expenditures in a form prescribed by the AESO;

(iv) copies of the quarterly financial statements and annual financial statements of the Successful Proponent during both the construction and operating periods;

(v) copies of all financial reporting provided to any lender by the Successful Proponent; and

(vi) periodic reports that may be required by the AESO from time to time.

The Successful Proponent will be required to respond in a timely manner to any enquiry reasonably made by the AESO.

(c) Records and Inspection

The Successful Proponent will be obliged to keep certain records for specified time periods. The AESO will have certain rights to inspect such records and audit same as appropriate.

(d) Safety

The Successful Proponent will undertake to observe all Applicable Law including all safety requirements.
(e) Successful Proponent’s Other Obligations
The Successful Proponent will be further obliged to do all things specified in the PA and take such other action as required from time to time by the AESO.

18. AESO’s Representations and Obligations
(a) AESO’s Representations
The AESO will be required to provide standard representations including its organizational structure and due authority.

(b) AESO’s General Obligations
The AESO will be obliged to do all things specified in the PA at the times specified.

(c) Assistance With Permits
The AESO may provide assistance to the Successful Proponent with respect to obtaining those permits, licenses and approvals required in respect of a Project.

19. Default and Remedies
(a) Default
Default events will include:
(i) Successful Proponent bankruptcy or insolvency;
(ii) Successful Proponent wind-up or dissolution;
(iii) the Successful Proponent abandoning a Project at any time during the construction or operating periods;
(iv) the Successful Proponent failing or considered likely to fail to achieve Project milestones by prescribed dates;
(v) the Successful Proponent failing to achieve Actual ISD; and
(vi) the Successful Proponent failing to submit a reasonable remedial plan to the AESO within a prescribed time period of being notified of a potential or actual event of default or failing thereafter to carry out the plan within the prescribed time period.

(b) Remedies
In the event of default, the AESO may take such remedial action as it considered necessary including:
(i) realizing on any Project Security; or
(ii) if at any time during the construction or operating periods the AESO believes that:
   (A) there is a serious risk to public safety or the environment;
   (B) remedial action is necessary in order to discharge a statutory duty or enable performance by another person of a statutory duty; or
(C) the Successful Proponent or its subcontractors are excluding or limiting public use of the Project Assets in a manner inconsistent with good electric operating practices; then the AESO may give notice to the Successful Proponent to take such remedial action as it considers necessary.

20. Termination

(a) General Termination Provisions:

(i) Termination will be subject to the provisions of the Direct Lender Agreement.

(ii) As soon as practicable the AESO shall pay compensation as described below, together with any interest due, or enter into an alternative arrangement for payment as provided in the Direct Lender Agreement.

(iii) Upon the AESO confirming its obligation to pay compensation, the Successful Proponent will upon request of the AESO provide copies of all records that relate to a Project.

(iv) Certain PA obligations will extend beyond termination and include: indemnification, obligation of the AESO to pay compensation for termination, obligations in relation to confidential information and obligations in relation to the dispute resolution procedure.

(b) Termination for AESO Default or AESO Convenience

The PA may be terminated for AESO default (typically non-payment by the AESO) or AESO convenience upon notice, in which case, the Successful Proponent will transfer for nominal consideration all rights and title of any Project Assets acquired during the PA term up to and including the date of termination to an entity determined by the AESO. The AESO will then pay the Successful Proponent compensation based upon:

(i) a termination payment equal to the net present value of the remaining balance of the return of and on equity; plus

(ii) outstanding debt principal; plus

(iii) all related breakage costs; less

(iv) any insurance proceeds.

(c) Termination for Successful Proponent Default

The PA may be terminated for Successful Proponent default upon notice, in which case, the Successful Proponent will transfer for nominal consideration all rights and title of any Project Assets acquired during the PA term up to and including the date of termination to an entity determined by the AESO. The AESO will then pay the Successful Proponent compensation based upon:

(i) the fair market value of the specified Project; less

(ii) insurance proceeds; and less
(iii) all costs reasonably anticipated to be incurred by the AESO to ensure the continuity of the services under the PA.

For payment based on fair market value the AESO and the Successful Proponent will seek to agree on the fair market value calculated:

(i) as of the date of termination (assuming no termination event occurred);

(ii) assuming an arm's length purchaser would be responsible for curing any existing event of default;

(iii) assuming a willing and qualified purchaser and the Successful Proponent being a willing vendor;

(iv) having regard to future payments expected for the remainder of the term, the costs of remedial action regarding an event of default and the cost of carrying out anticipated operations and maintenance, including reasonable contingencies; and

(v) after deduction of the AESO's reasonable costs in determining fair market value and less the AESO's reasonable costs of selecting and entering into an agreement with a replacement Successful Proponent.

(d) Force Majeure or No Fault Termination

The PA may be terminated for an event of force majeure or "No Fault" event upon notice, in which case, the Successful Proponent will transfer for nominal consideration all rights and title of any Project Assets acquired during the PA term up to and including the date of termination to an entity determined by the AESO. The AESO will then pay the Successful Proponent compensation based upon:

(i) the balance of any equity investment that has not been recovered; plus

(ii) the amount of outstanding debt principal; less

(iii) any insurance proceeds.

21. Liability and Indemnity

(a) General Indemnity and Limitation of Liability

General indemnity and limitation of liability provisions consistent with Canadian commercial practice will be included in the PA. Parties must take reasonable measures to mitigate their damages or losses.

(b) Exclusivity of Specified Remedies

The AESO may not claim indemnification to the extent that it is also entitled to a payment adjustment/deduction under section 13.

22. Dispute Resolution

This section will address and provide for a dispute resolution procedure.
This section will include provisions with respect to:
(a) prohibition against assignment, subcontracting, and change in ownership without AESO pre-approval;
(b) intellectual property ownership and licensing;
(c) governing law;
(d) designation of contract administration representatives; and
(e) communication matters such as delivery of notices, authority to provide notice, public announcements, confidentiality of information and its use and disclosure.

24. Schedules
The PA will typically contain schedules which may provide further detail on provisions contained in the PA, including the following:
(a) change orders (See section 9);
(b) construction schedule (See section 6) provided as part of the Successful Proponent's RFP Submission and consistent with the Request for Proposals and as amended by the PDA;
(c) financial model provided as part of the Successful Proponent's RFP Submission and consistent with the Request for Proposals and as amended by the PDA;
(d) project design and approval, including a Project's functional specification and the uniform TFO terms and conditions, as applicable (See section 6) – provided as part of the Successful Proponent's RFP Submission and consistent with the Request for Proposals and as amended by the PDA;
(e) Direct Lender Agreement (See section 7);
(f) interconnection of a Project with the interconnected electric system;
(g) index factor (See section 12);
(h) payment schedule (See section 12);
(i) payment adjustments (See section 13);
(j) safety requirements (See section 17); and
(k) subcontractors – a list of approved subcontractors.
1. "Actual ISD" means the actual in-service date of a Project.

2. "AESO" means the Independent System Operator or the ISO.

3. "AESO Savings Proposal" means a proposal requested by the AESO and submitted by the Preferred Proponent during the term of the PDA identifying potential cost savings for a Project.

4. "Applicable Law" means in relation to a Project, the Commercial Agreements, or the Scope of Work: (i) any applicable principles of common law and equity and any applicable federal, state, provincial, municipal and local law including any statute, subordinate legislation or treaty; and (ii) any applicable guideline, protocol, directive, direction, rule, standard, requirement, program, policy, order, judgment, injunction, award or decree of any governmental authority having the force of law.

5. "Commercial Agreements" means the CP Agreements and the CP Project Agreements, as applicable.

6. "Commercial Close" means the date on which the PA is executed by the Preferred Proponent and the AESO.

7. "Competitive Process" means the competitive process established by the ISO in the Competitive Process document and all Schedules attached thereto to develop certain transmission facilities as required pursuant to section 24.2(2) of the Transmission Regulation.

8. "Conflicts of Interest" means a relationship resulting from the inclusion in or use by a Participant in any part of the Competitive Process of any party whose involvement with that Participant would create a conflict with the interests of the AESO.

9. "CP Agreements" means the Proponent Agreement and any other agreements the AESO considers necessary for the Competitive Process.

10. "CP Financial Security" means with respect to a Project, a deposit of money, a performance bond, a bank or third party guarantee, a letter of credit, or any other form of financial or performance security acceptable to the ISO at its sole discretion.

11. "CP Project Agreements" means the PDA, the PA and any other agreements the AESO considers necessary for a Project.

12. "Direct Lender Agreement" means an agreement to be executed among the AESO, the Successful Proponent and one or more credit providers or lenders (collectively "lenders") to the Successful Proponent acknowledging the position and rights of the lenders in relation to the Successful Proponent and the Project.

13. "Fairness Advisor" means the individual retained by the AESO to observe and report upon the Competitive Process.

14. "Final Adjusted Project Costs" means final costs for a Project determined in accordance with the adjustment mechanisms set out in the PDA.
15. "Glossary" means the Consolidated Authoritative Documents Glossary developed by the AESO and published on the AESO website as updated from time to time.

16. "Honorarium" means a payment to those Proponents submitting a compliant Proposal who are not selected as the Preferred Proponent and who meet other specified conditions.

17. "including or "includes" means including (or includes) without limitation.


19. "Interested Party" means a person who submits an REOI Response to the AESO.

20. "PA" means a Project Agreement for a Project as described in Schedule 6.

21. "Participant" means an Interested Party, a Respondent, a Proponent, a conditionally selected Preferred Proponent or a Preferred Proponent.

22. "PDA" means a Project Development Agreement for a Project as described in Schedule 5.

23. "person" as defined in the Electric Utilities Act includes an individual, unincorporated entity, partnership, association, trustee, executor, administrator or legal representative.

24. "Preferred Proponent" means the Proponent that has satisfied requirements in the Request for Proposals and is selected by the ISO as the Preferred Proponent.

25. "Preferred Proponent Savings Proposal" means a proposal submitted by the Preferred Proponent during the term of the PDA identifying potential cost savings for a Project.

26. "Preferred Proponent Security" means that security, typically a letter of credit, provided to the AESO by the conditionally selected Preferred Proponent securing the Preferred Proponent's commitment to fulfill its obligations under the PDA.

27. "Project" means any one of those transmission facility projects that are referred to in section 24(3)(a), (c) or (d) of the Transmission Regulation and that is commenced in accordance with the Competitive Process.

28. "Project Assets" means any right, property or asset, whether real or personal and whether tangible or intangible, which comprise the interest of the Successful Proponent in the Project or which are required to carry out the Scope of Work including any land right, authorization, permit, licence, consent, approval, agreement or other arrangement with or from a third party, certificate, statutory agreement.

29. "Project Development Fee" means the amount identified in the financial model submitted by the Preferred Proponent with its Proposal, representing the costs to be incurred by the Preferred Proponent in fulfilling its obligations under the PDA.
30. "Project Security" means that security provided to the AESO by the Successful Proponent securing the Successful Proponent’s commitment to fulfill its obligations under the PA.

31. "Proponent" means a Respondent who has been qualified and selected to participate in the Request for Proposals stage by the AESO in accordance with the Request for Qualifications requirements.

32. "Proponent Agreement" means a proponent agreement for a Project as described in Schedule 4.

33. "Proponent Security" means that security, typically a letter of credit, provided to the AESO by the Respondents selected by the AESO as Proponents, to secure commitments of such Proponents to participate in the RFP and to submit to the AESO a compliant Proposal.

34. "REOI Response" means a response by an Interested Party to the AESO in response to a Request for Expressions of Interest.

35. "Request for Expressions of Interest" means the process described in Schedule 1.

36. "Request for Proposals" means the process described in Schedule 3.

37. "Request for Qualifications" means the process described in Schedule 2.

38. "Respondent" means a person who submits a RFQ Submission to the AESO in accordance with a Request for Qualifications.

39. "RFP Submission" means a proposal submitted to the AESO by a Proponent in response to a Request for Proposals.

40. "RFQ Commencement Date" means the date specified in the notice under a Request for Qualifications for a Project.

41. "RFQ Submission" means a submission submitted by a Respondent to the AESO in response to a Request for Qualifications.

42. "Right of Way" means that tract of land, or those tracts of land comprising the route approved by the Commission in the facility application approval for a Project.

43. "Schedule" means any one of the Schedules to the Competitive Process document.

44. "Scope of Work" means those elements of project development, design, engineering, procurement, construction, finance, operations and maintenance and major maintenance that are included in the scope of a Project, to be undertaken by the Preferred Proponent / Successful Proponent pursuant to the CP Project Agreements.

45. "Selection Panel" means the panel comprised of the technical, financial and environmental and consultation matters panels responsible for recommending to the AESO:

   (a) those Respondents to be selected as Proponents for a Project; and
   (b) the Proponent to be selected as the Preferred Proponent for a Project.
46. "Successful Proponent" means the Preferred Proponent who has executed the final CP Project Agreement with the AESO to undertake a Project.

47. "Target Facility Application Approval Date" means the target date set by the AESO which may be adjusted by the terms of the PDA, by which the Preferred Proponent is to obtain facility application approval.

48. "Target ISD" means the target in-service date set by the AESO which may be adjusted by the terms of the CP Project Agreements.

49. "Termination Fee" means that amount payable by the AESO to the Preferred Proponent / Successful Proponent upon termination of a CP Project Agreement which may vary depending on the timing and circumstances of such termination.

50. "Updated Financing Costs" means those updated costs of financing for a Project as determined in accordance with those adjustment mechanisms set out in the PDA and upon completion of a funding competition is conducted by the Preferred Proponent prior to execution of the PA.
COMPETITIVE PROCESS
SCHEDULE 8
ADJUSTMENT METHODOLOGIES IN THE CP PROJECT AGREEMENTS

The form of the CP Project Agreements will be finalized and fixed by the AESO prior to the Proponents submitting final RFP Submissions. The fixed CP Project Agreements will contain set methodologies to address needed adjustments over the period of the CP Project Agreements.

Adjustments to the CP Project Agreements will be made only to the extent expressly contemplated in the CP Project Agreements. No amendment to the terms and conditions of the CP Project Agreements (other than the correction of errata) will be permitted to be made by the AESO, whether before or after the execution of the CP Project Agreements. No circumstance will give rise to an adjustment to any payments or schedules, any of the Successful Proponent's obligations, or the risk allocations under the CP Project Agreements unless an adjustment methodology recognizing the circumstance which gives rise to the adjustment is expressly set forth in the CP Project Agreements.

The following table sets forth circumstances which can give rise to an adjustment to payments, schedules or other obligations of the Successful Proponent1 under the CP Project Agreements, along with a description of the methodologies that are contemplated to be included in the CP Project Agreements with respect to each of those circumstances.

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1 In this Schedule 8, use of the term "Successful Proponent" means, as the context requires, the Preferred Proponent which has executed the PDA and/or the Successful Proponent which has executed the Project Agreement.
<table>
<thead>
<tr>
<th>Event or Occurrence which may Result in an Adjustment</th>
<th>Period During which Event or Occurrence Arises</th>
<th>Type of Adjustment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inflation / deflation</td>
<td>Pre-construction and operations</td>
<td>Payment adjustment</td>
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</table>

**Bases for Adjustment:**

The PDA contemplates that since the Successful Proponent is required to make a facilities application to the Alberta Utilities Commission (the "Commission") and Commission approval will significantly post-date submission of the final RFP Submission, certain adjustments to the Successful Proponent's financial proposal may be required to reflect the consequences of the passage of time between delivery of the final RFP Submission and financial closing (the "Development Period") for the component costs and financing of the Project, and the consequences of any route adjustment required by the Commission for the major components and lands required for the Project.

Generally, with respect to construction costs for major components of the Project, adjustment mechanisms will be specified in the PDA which provide a pre-determined indices-based method of varying the costs of such major components to account for commodity, labour, and other price changes, including foreign exchange changes, over the Development Period. Once those costs are adjusted and updated, the proposed construction price set forth in the final RFP Submission will be updated and a revised construction price will be calculated which accounts for such changes (the "Index Adjusted Construction Price" or "IACP").

Annual operating and maintenance prices included in the final RFP Submission will likewise be adjusted (through a predetermined and like method which will be set forth in the PA) to account for changes in various operation and maintenance cost components during the Development Period (the "Index Adjusted O&M Cost"), and will also be similarly adjusted on an annual basis during the operations period of the Project to account for changes in such costs during the construction period and the operations period.

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<tr>
<th>Event or Occurrence which may Result in an Adjustment</th>
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<tbody>
<tr>
<td>Foreign exchange movement</td>
<td>Pre-construction</td>
<td>Payment adjustment</td>
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**Bases for Adjustment:** See discussion above re: "Inflation / deflation".

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<tr>
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<tbody>
<tr>
<td>Route change arising from AUC decision</td>
<td>Pre-construction</td>
<td>Payment adjustment</td>
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</table>

**Bases for Adjustment:**

If the Commission's decision alters the Successful Proponent's proposed route for the Project, the quantity of each type of major component and each type of land required in respect of the Project will be updated, and a revised Index-Adjusted Construction Price will be calculated in respect of such updated quantities, using the index-adjusted component costs calculated as per above in respect of inflation, deflation and foreign exchange, and using the unit prices stipulated in the Successful Proponent's final RFP.
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<tr>
<th>Event or Occurrence which may Result in an Adjustment</th>
<th>Period During which Event or Occurrence Arises</th>
<th>Type of Adjustment</th>
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</thead>
<tbody>
<tr>
<td>Submission with respect to land acquisition costs (such revised price, the &quot;Quantity Adjusted Construction Price&quot; or &quot;QACP&quot;).</td>
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However, the PDA may limit the amount by which the Quantity Adjusted Construction Price may vary from the Index-Adjusted Construction Price for purposes of calculating a final adjusted price (the "Final Construction Price" or "FCP"). For example, it is contemplated for the first Project that the FCP will be calculated as follows: (i) if the QACP is within plus or minus 5% of the IACP, the Successful Proponent will be responsible for all cost increases to that extent or will be entitled to the benefit of cost savings to that extent and no adjustment will be made to the IACP (i.e. $\text{FCP} = \text{IACP}$); (ii) if the QACP is greater than the IACP by between 5% and 15% percent, the AESO will pay all excess costs in that range and the IACP will be increased accordingly; (iii) if the QACP is greater than the IACP by more than 15%, the Successful Proponent will be responsible for the first 5% of increased costs, as well as costs in excess of 15%, and the IACP will be increased by 10%; and (iv) if the QACP is less than the IACP by more than 5%, the IACP will be decreased by the amount of the cost savings in excess of 5%.

If the Commission's decision alters the Successful Proponent's proposed route for the Project, the Index-Adjusted O&M Cost will also be adjusted to account for any variation in the length of the transmission line, and no cap or limitation will be placed on the amount of such adjustment.

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<th>Change in financial markets</th>
<th>Pre-construction</th>
<th>Payment adjustment</th>
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</table>

**Bases for Adjustment:**

The final RFP Submission submitted by the Successful Proponent will include an indicative financial model which forms the basis of the Successful Proponent's bid ("Indicative Financial Model"). Due to the length of the Development Period, the Successful Proponent will be unable to secure firm financing at the time of its final RFP Submission. Accordingly, after Project costs have been updated and adjusted at the end of the Development Period, the Successful Proponent will be required to run a debt funding competition to obtain committed financing and update the financing costs, prior to execution of the Project Agreement, to reflect the then current market conditions. The AESO will be responsible for paying the full amount of any increased financing costs, or will be entitled to payment reductions with respect to the full amount of any decreased financing costs, and corresponding adjustments shall be made to the payments to be made by the AESO following energization of the transmission facilities (the "AESO Payments").

Changes to the financing structure and corresponding payment adjustments will not be permitted unless the Successful Proponent can demonstrate to the AESO's satisfaction that an alternative financing structure will result in a reduction in the financing costs and in the corresponding payments to be made by the AESO. If the Successful Proponent can demonstrate that an alternative financing structure will result in reduced financing costs, the Successful Proponent will be entitled to a pre-determined share in the benefit of such reduction as set out in the PDA. Except in the case of such benefit sharing,
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<tr>
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<th>Period During which Event or Occurrence Arises</th>
<th>Type of Adjustment</th>
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<tbody>
<tr>
<td>Successful Proponent’s rate of return on equity in its Indicative Financial Model will not be permitted to change.</td>
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<tr>
<td>Changes in base interest rates on debt</td>
<td>Pre-construction</td>
<td>Payment adjustment</td>
</tr>
<tr>
<td><strong>Bases for Adjustment</strong>: If the base interest rates which are set forth in the Indicative Financial Model (e.g. GOC, BA or Canadian Libor rates) change between submission of the final RFP Submission and the execution of the Project Agreement at the end of the Development Period, the AESO will pay the full amount of any increased costs relating to such change, or will be entitled to payment reductions in respect of the full amount of any decreased costs, and corresponding adjustments will be made to the AESO Payments.</td>
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<tr>
<td>Change in indicative insurance costs</td>
<td>Pre-construction</td>
<td>Payment adjustment</td>
</tr>
<tr>
<td><strong>Bases for Adjustment</strong>: After Project costs have been updated and adjusted at the end of the Development Period, committed insurance will be obtained on a competitive basis. The AESO will pay the full amount of any increase in actual insurance costs as compared to the indicative insurance costs set forth in the Indicative Financial Model, or will be entitled to a payment reduction in respect of the full amount of any decreased costs, and corresponding adjustments will be made to the AESO Payments. Such insurance costs will thereafter be adjusted annually to reflect the full amount of any changes in the Successful Proponent’s insurance costs which are not attributable to its fault or negligence, which changes will be determined in accordance with an adjustment mechanism, specified in the Project Agreement, which provides a pre-determined method of varying such insurance costs.</td>
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<tr>
<td>Refinancing</td>
<td>Construction or operations</td>
<td>Payment adjustment</td>
</tr>
<tr>
<td><strong>Bases for Adjustment</strong>: If the financial markets are unable to provide debt financing to match the term of the Project Agreement, then for the first refinancing of each component of the debt financing, the AESO will pay the full amount of any increased costs, or be entitled to payment reductions in respect of the full amount of any decreased costs, as the case may be, which arise in connection with any changes in interest rates, and will pay the full amount of any refinancing fees, and corresponding adjustments will be made to the remaining AESO Payments. All such refinancing will be obtained on a competitive basis.</td>
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<tr>
<td>Early or late completion</td>
<td>Completion of construction</td>
<td>Payment adjustment</td>
</tr>
</tbody>
</table>
| **Bases for Adjustment**: The Project Agreement will set forth a target date for completion of construction and energization of the transmission facilities (the “Target In-Service
<table>
<thead>
<tr>
<th>Event or Occurrence which may Result in an Adjustment</th>
<th>Period During which Event or Occurrence Arises</th>
<th>Type of Adjustment</th>
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<tr>
<td>Date”), and will set forth the specific adjustments which will be made to the monthly payments from the AESO to the Successful Proponent if energization occurs either before or after such target date. It is contemplated that the term of the PA will end on a fixed date following the Target In-Service Date and that monthly AESO Payments will be calculated based on such term. As such, the operating period will be extended or shortened depending on whether energization occurs before or after the Target in-Service Date, and the number of monthly AESO Payments may increase or decrease as a result.</td>
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<tr>
<td>Failure to meet availability or performance standards</td>
<td>Operations</td>
<td>Payment adjustment</td>
</tr>
<tr>
<td><strong>Bases for Adjustment:</strong> The PA will set forth criteria with respect to the availability of the transmission facilities and the Successful Proponent’s performance of its operation, maintenance and other obligations under the Project Agreement. If such criteria are not met, formula-based adjustments will be made to the monthly payments from the AESO to the Successful Proponent.</td>
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<tr>
<td>Termination events</td>
<td>Any period</td>
<td>Termination payment</td>
</tr>
<tr>
<td><strong>Bases for Adjustment:</strong> The PDA and the PA will stipulate the only bases of permitted termination, including the Successful Proponent's default, the occurrence of certain extended relief events or extended events of force majeure, the AESO's convenience, or the AESO's default, and will provide for termination payments if such agreements are terminated. The manner in which such termination payments will be calculated will be specifically set forth, with calculations being based upon the reason for the termination and matters such as: the amount of development and procurement costs incurred by the Successful Proponent prior to termination, the reasonable cancellation charges and break fees incurred by the Successful Proponent in settling the claims of its contractors and suppliers in connection with such termination, and the AESO's costs of securing a replacement proponent.</td>
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<tr>
<td>Change Orders</td>
<td>Any period</td>
<td>Payment, schedule, and other adjustments</td>
</tr>
<tr>
<td><strong>Bases for Adjustment:</strong> The PDA and the PA will include change order provisions which set forth the bases for making changes to the scope of the Project. If the AESO requires or proposes a change order, or if the Successful Proponent proposes a change order which it believes is necessary or desirable to improve the quality, reliability or safety of the Transmission Facilities, the AESO may initiate an enquiry process with respect thereto pursuant to which the Successful Proponent will provide the AESO with a reasonable estimate and proposal of the cost increases or decreases, and the schedule and other changes which will result from such change order. The Successful Proponent will be required to use reasonable efforts to minimize cost increases and maximize cost decreases, and to limit schedule adjustments to the extent of any reasonable impact caused by such change order.</td>
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<tr>
<td>Event or Occurrence which may Result in an Adjustment</td>
<td>Period During which Event or Occurrence Arises</td>
<td>Type of Adjustment</td>
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<tr>
<td>No change order will be permitted if it is of such magnitude that it could reasonably be expected to materially impact the financing of the Project or otherwise materially and adversely alter the risk profile of the Project.</td>
<td>Any period</td>
<td>Change to payments, schedules, and project requirements</td>
</tr>
<tr>
<td>The AESO will determine whether or not to proceed with each change order based on the cost, schedule and other changes estimated or proposed by the Successful Proponent. In making such determination the AESO will involve the engineering firm which it has retained in respect of the Project (the &quot;AESO Engineer&quot;) and other experts as necessary to assess the estimated or proposed cost, schedule and other changes.</td>
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<tr>
<td>Successful Proponent request re: cost savings proposal</td>
<td>Pre-construction</td>
<td>Payment adjustment</td>
</tr>
<tr>
<td>Bases for Adjustment: - The PDA and the PA may contain provisions which permit the Successful Proponent to propose changes to the Project which result in cost savings or efficiencies; provided that such proposals are originated and initiated solely by the Successful Proponent without any involvement on the part of the AESO or its consultants. Any such cost savings proposal will be subject to the general change order provisions, with the exception that the payment adjustments will include a specific formula for sharing the benefit of net cost reductions.</td>
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<tr>
<td>Uninsurable Risks</td>
<td>Construction or operations</td>
<td>Payment Adjustment</td>
</tr>
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</table>
| Bases for Adjustment: - If an event for which the Successful Proponent is required to carry insurance coverage becomes uninsurable, then the AESO Payments will be adjusted to account for the full amount of the reduction in the applicable insurance premiums. The AESO, in such case, will pay the full amount of any incremental costs incurred by the Successful Proponent in responding to such event of uninsurable loss; provided that: (i) insurance proceeds would have been payable in respect of such loss if the specified insurance had been available; and (ii) the uninsurability of such event is not caused by the Successful Proponent's own actions. The PDA and the PA will set forth criteria for determining when a risk in respect of which insurance is required is
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<tr>
<th>Event or Occurrence which may Result in an Adjustment</th>
<th>Period During which Event or Occurrence Arises</th>
<th>Type of Adjustment</th>
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<tbody>
<tr>
<td>Change in Law (restricted to defined list of changes in law)</td>
<td>Any period</td>
<td>Payment and schedule adjustments</td>
</tr>
<tr>
<td><strong>Bases for Adjustment:</strong> The PDA and the PA will include change in law provisions which require the Successful Proponent, at the AESO’s cost, to use reasonable efforts to mitigate the impact of any change in law (as defined) on its obligations. The AESO will pay the full amount of any net cost increases which are incurred by the Successful Proponent with respect to any such change in law, and will be entitled to payment reductions in respect of the full amount of any net cost decreases, and corresponding adjustments will be made to the AESO Payments. Schedule adjustments will only be permitted to the extent of any reasonable impact caused by the change in law.</td>
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If the Successful Proponent requests any such payment or schedule adjustments it will provide the AESO with a reasonable estimate and proposal with respect thereto. The AESO will determine whether or not to accept such estimate and proposal, and will involve appropriate experts in such determination as necessary. Any dispute between parties will be resolved in accordance with the dispute resolution provisions set forth in the agreements, and if the matter is submitted to arbitration, the arbitrator will determine it with reference to the adjustment bases set forth above. |

| Force majeure events (restricted to defined list of qualifying events) | Any period | Payment and schedule adjustments |
| **Bases for Adjustment:** |

The force majeure provisions in both the PDA and the PA will require the Successful Proponent to use reasonable efforts, at its cost, to mitigate the impact of any event of force majeure (as defined) on its obligations. |

During the Development Period, a force majeure caused delay will correspondingly adjust schedule by the length of the delay in obtaining permits and licences which such event of force majeure is reasonably determined to have caused, but no adjustments will be permitted to any of the AESO Payments as a result of any such event of force majeure. |

The same schedule adjustments which are set forth in the prior paragraph will also be applicable in the event of force majeure during the construction period, except that the Target In-Service Date will not be adjusted. As in the Development Period, no adjustments will be permitted to any of the AESO Payment provisions as a result of any such event of force majeure. If, however, and in consequence of such force majeure event, energization of the transmission facilities is delayed until after the Target In-Service Date, then upon energization occurring, and in order to permit the Successful Proponent to pay its financing obligations, the AESO will pay to the Successful Proponent an amount equal to the capital payment that would have been payable by the AESO to the Successful Proponent had energization occurred on or prior to the
<table>
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<tr>
<th>Event or Occurrence which may Result in an Adjustment</th>
<th>Period During which Event or Occurrence Arises</th>
<th>Type of Adjustment</th>
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<tr>
<td>Target In-Service Date.</td>
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During the operations period, schedule adjustments, if any, will be based on the reasonable impact that the event of force majeure has on the Successful Proponent's schedule, and AESO Payments will be subject to reduction to account for reduced variable operation and maintenance costs incurred by the Successful Proponent as a result of the event of force majeure.

If the Successful Proponent requests any of the above-referenced payment or schedule adjustments, it will provide the AESO with a reasonable estimate and proposal with respect thereto. The AESO will determine whether or not to accept such estimate and proposal, and will involve the AESO Engineer and other experts in such determination as necessary. Any dispute between parties will be resolved in accordance with the dispute resolution provisions set forth in the agreements, and if the matter is submitted to arbitration, the arbitrator will determine it with reference to the adjustment bases set forth above.

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<tr>
<th>Relief events (restricted to defined list of qualifying events)</th>
<th>Any period</th>
<th>Payment and schedule adjustments</th>
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**Bases for Adjustment:**

The relief event provisions in both the PDA and the PA will require the Successful Proponent to use reasonable efforts, at the AESO's cost, to mitigate the impact of any relief event (as defined) on its obligations.

During the Development Period, any one or more relief events wholly or substantially prevents the Successful Proponent from proceeding with any critical path obligation (as defined) for a minimum threshold period of time, schedule will be correspondingly adjusted by the number of days that such relief event prevents performance of such critical path obligation, and the AESO will pay the full amount of any net incremental costs (in excess of a specified threshold) which are reasonably incurred by the Contractor in order to carry out its obligations in respect of the Project as a result of such relief event.

The same adjustments which are set forth in the prior paragraph will also be applicable in the case of any relief event during the construction period, except that the Target In-Service Date will not be adjusted. If, however, and in consequence of such relief event, energization of the transmission facilities is delayed until after the Target In-Service Date, then upon energization occurring, and in order to permit the Successful Proponent to pay its financing obligations, the AESO will pay to the Successful Proponent an amount equal to the capital payment that would have been payable by the AESO to the Successful Proponent had energization occurred on or prior to the Target In-Service Date.

During the operations period, schedule adjustments, if any, will be based on the reasonable impact that the relief event has on the Successful Proponent's schedule, and the AESO will pay the full amount of any net incremental costs (in excess of a
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<tbody>
<tr>
<td>Specified threshold) which are reasonably incurred by the Contractor in order to carry out its obligations in respect of the Project as a result of such relief event.</td>
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<tr>
<td>If the Successful Proponent requests any of the above-referenced payment or schedule adjustments, it will provide the AESO with a reasonable estimate and proposal with respect thereto. The AESO will determine whether or not to accept such estimate and proposal, and will involve the AESO Engineer and other experts in such determination as necessary. Any dispute between parties will be resolved in accordance with the dispute resolution provisions set forth in the agreements, and if the matter is submitted to arbitration, the arbitrator will determine it with reference to the adjustment bases set forth above.</td>
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<tr>
<td>Asset condition inspection reveals that work is required for assets to meet end of term condition requirements</td>
<td>Operations</td>
<td>Payment adjustment</td>
</tr>
<tr>
<td><strong>Bases for Adjustment:</strong> The PA will set forth provisions which require asset condition inspections to be carried out at prescribed intervals during the operations period. If any inspection reveals that work is required in order for the transmission facilities to meet the end of term condition requirements: (i) the Successful Proponent will be required to prepare and deliver a comprehensive work plan and schedule which will permit such end of term conditions to be met; and (ii) the AESO may require the Successful Proponent to provide reasonably security, or may make reasonable holdbacks from the AESO Payments for purposes of ensuring that such end of term conditions will be met.</td>
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<tr>
<td>The AESO will determine whether or not to accept such work plan, will determine the security requirements, if any, and will involve the AESO Engineer and other experts in such determinations as necessary. Any dispute between parties will be resolved in accordance with the dispute resolution provisions set forth in the agreements, and if the matter is submitted to arbitration, the arbitrator will determine it with reference to the adjustment bases set forth above.</td>
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<tr>
<td><strong>Default</strong></td>
<td>Any period</td>
<td>Potential schedule and other adjustments</td>
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<tr>
<td><strong>Bases for Adjustment:</strong> The PDA and the PA will set forth default provisions which will require the Successful Proponent to use commercially reasonable efforts to cure, or to undertake a commercially reasonable course of action to mitigate the consequences of, any default of its obligations or breach of its representations and warranties which has, or potentially will have, a material adverse effect (as defined). If the Successful Proponent fails to cure the default or undertake and continue to diligently pursue such a course of action within a specified period of time, such failure will give rise to termination rights or other remedies (e.g. replacement of construction or o&amp;m subcontractors) on the part of the AESO.</td>
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<td>In making any determination with respect to whether the Successful Proponent has</td>
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<tr>
<td>Event or Occurrence which may Result in an Adjustment</td>
<td>Period During which Event or Occurrence Arises</td>
<td>Type of Adjustment</td>
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<td>cured, is using commercially reasonable efforts to cure, or is undertaking a commercially reasonable course of action to mitigate the consequences of, any default, the AESO will involve the AESO Engineer and other experts in such determinations as necessary. Any dispute between the parties will be resolved in accordance with the dispute resolution provisions set forth in the agreements.</td>
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