August 28, 2013

Salma Karim
Application Officer
Alberta Utilities Commission
Fifth Avenue Place. Fourth Floor
425 – 1st Street SW
Calgary, Alberta T2P 3L8

Dear Salma:

Re: Addendum to AESO 2014 ISO Tariff Application
Construction Commitment Agreement Proforma (Appendix B of Proposed 2014 Tariff)
Application No. 1609765 and Proceeding ID No. 2718

On July 17, 2013, the AESO filed its 2014 ISO Tariff Application and 2013 ISO Tariff Update. In the cover letter to its application, the AESO noted that the construction commitment agreement proforma in Appendix B of the ISO tariff was not included and would be filed later as an addendum to the application.

The AESO has now finalized its revisions to the construction commitment agreement proforma and submits the proforma for inclusion in the proposed 2014 tariff.

If you need any additional information on this addendum, please contact me at 403-539-2465 in Calgary or by email to john.martin@aeso.ca.

Yours truly,

John Martin
Director, Tariff Applications

cc: Lee Ann Kerr, Manager, Tariff Applications, AESO
Raj Sharma, Senior Tariff Analyst, AESO
Nicole Weigel, Regulatory Coordinator, AESO
THIS CONSTRUCTION COMMITMENT AGREEMENT made as of the ___ day of ____________, 201__ (the “Effective Date”)

BETWEEN:

[Insert Name of Legal Owner of the Transmission Facility],
a corporation incorporated under the
laws of the Province of Alberta (hereinafter referred to as the “TFO”)

-and-

[Insert Name of Market Participant] a corporation incorporated under the
laws of the Province of ● (hereinafter referred to as the “Market Participant”)

WHEREAS:

A. The Market Participant has requested system access service from the Independent System Operator, operating as Alberta Electric System Operator (the “ISO”) and intends to enter into, or amend, a system access service agreement with the ISO in relation to [Insert Project Name and Number as provided by the ISO].

B. The provision or amendment of system access service will require the construction of new transmission facilities (the “Proposed Project”) and a commitment by the Market Participant in relation to the expenditure of capital for such construction.

C. The ISO Tariff requires the Market Participant to provide security to the TFO to fund the financial obligation of the Proposed Project in an amount determined pursuant to the ISO Tariff.

D. Prior to commencing the work set out in Schedule “A” hereto (the “Project Work”), the ISO Tariff requires the Market Participant to enter into this Construction Commitment Agreement with the TFO to hold the TFO harmless from any negative financial consequences related to the cancellation of the Proposed Project.

NOW THEREFORE in consideration of the mutual covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the parties, the parties hereby agree as follows:

Defined Terms

1. Capitalized terms utilized in the Agreement shall have the meanings ascribed to such terms in the preamble or body of this Agreement, and in addition the following defined terms shall have the meanings ascribed to such terms below:

   “Act” means the Electric Utilities Act and any regulations made under it.

   “Agreement” means this Construction Commitment Agreement and all amendments hereto, including all Schedules attached herewith and amendments thereto.

   “Cancellation Costs” means the aggregate amount of costs and expenses, as well as any losses, damages, penalties or other claims the TFO has incurred, may incur or be subject to howsoever arising from the Proposed Project, including without limitation all cancellation penalties and costs for material salvage and reclamation of the construction site.
"Commercial Operation" means the date upon which a load, generating unit or aggregated generating facility begins to operate on the transmission system in a manner which is acceptable to the ISO and which is expected to be normal for it to so operate, after energization and commissioning.

"Commission" as defined in the Act means the Alberta Utilities Commission established by the Alberta Utilities Commission Act.

"Construction Contribution" means the financial contribution in aid of construction, in excess of any available maximum local investment, that a market participant must pay for the construction and associated costs of transmission facilities required to provide system access service.

"Financial Obligation" means any debt, payment or similar obligation of a market participant actually incurred or likely to be incurred under the ISO rules, the reliability standards, the ISO tariff or as a counterparty to any contract with the ISO.

"Financial Security" means sufficient enforceable credit support to secure the Financial Obligations of a market participant to the ISO or a TFO.

"ISO Tariff" as defined in the Act means the tariff prepared by the ISO under section 30 of the Act that has been approved by the Commission.

"Material Adverse Change" means a downgrade in the credit rating of a market participant by any credit rating agency, or an event that may result in the materially weaker creditworthiness of a market participant as would be reasonably determined by the ISO.

"Schedules" means the following Schedules attached to this Agreement, and all amendments to such Schedules:

Schedule “A” – Project Work
Schedule “B” – Security

Term of Agreement

2. This Agreement shall take effect on the Effective Date and shall remain in full force and effect until the Proposed Project begins Commercial Operation, or, if upon the occurrence of a Cancellation Event (as hereafter defined) the Proposed Project is deemed cancelled and all amounts owing to the TFO hereunder have been paid in full.

ISO Tariff

3. In addition to the obligations of the parties pursuant to this Agreement, the Market Participant shall remain fully subject to the ISO Tariff in respect of the Proposed Project.

Security

4. As security for the payment and performance of all present and future debts, liabilities and obligations of the Market Participant to the TFO, arising pursuant to this Agreement, the Market Participant agrees to provide or cause to be provided to the TFO, the Financial Security, Construction Contribution and other such security as set forth and described in Schedule “B” attached hereto (the “Security”). Such Security may include a guarantee from a guarantor on behalf of the Market Participant (the “Guarantor”).

5. Security shall be in an amount adequate to fund the Financial Obligation of the Project Work, including both maximum local investment and Construction Contribution, as determined pursuant to the ISO Tariff.
6. All changes to Security shall be documented in a duly executed amended Schedule(s) reflecting the change.

7. If all or part of the obligations of the Market Participant to the TFO pursuant hereto are unsecured, and the Market Participant becomes aware of any Material Adverse Change to the Market Participant or Guarantor, the Market Participant shall provide written notice thereof to the TFO and to the ISO within two (2) business days of the occurrence of such Material Adverse Change. Upon the occurrence of a Material Adverse Change, the TFO may, with authorization from the ISO, require the Market Participant to provide replacement Financial Security.

8. In determining an event of Material Adverse Change, consideration must be given to any event, circumstance or change which affects or would reasonably be expected to affect:
   
   (a) the financial condition of the Market Participant or a Guarantor;
   
   (b) the ability of the Market Participant or a Guarantor to perform its obligations under any Security; or
   
   (c) the assets or business of the Market Participant or a Guarantor.

Cancellation of Proposed Project

9. The Proposed Project shall be deemed to be cancelled upon the occurrence of any of the following events (each, a “Cancellation Event”):
   
   (a) the Market Participant fails to provide or cause to be provided the Security in the form set out in Schedule “B” concurrently with the execution and delivery of this Agreement, or fails to provide or cause to be provided such additional guarantee(s), security or other documents as it may be required to deliver to the TFO pursuant to the terms and conditions hereof;
   
   (b) the Market Participant terminates the Proposed Project, gives notice to the ISO, or the ISO otherwise becomes aware, that the Market Participant is not proceeding with the Proposed Project, or the Market Participant otherwise takes such action or inaction to cause the ISO, acting reasonably, to believe that the Market Participant is not proceeding with the Proposed Project;
   
   (c) the Commission rejects or fails to approve the relevant application for the Proposed Project;
   
   (d) the Market Participant fails to:
      
      (i) execute a system access service agreement (in the ISO’s standard form); or
      
      (ii) enter into an amendment of its existing system access service agreement with respect to the Proposed Project (in the ISO’s standard form), at least three (3) business days prior to the start of the month of energization;
   
   (e) the Market Participant or any Guarantor breaches any term, condition, agreement or covenant under this Agreement or the Security and fails to remedy such breach within five (5) business days of receipt of written notice of such breach by the TFO to the Market Participant;
   
   (f) any representation or warranty made or given by the Market Participant in connection with this Agreement is shown to be incorrect as at the date given or ceases to be true and correct during the term of this Agreement;
(g) the Market Participant or any Guarantor is found to be insolvent or bankrupt by a court of competent jurisdiction or makes an authorized assignment of its assets or a compromise or arrangement for the benefit of its creditors, makes a proposal to its creditors under the Bankruptcy and Insolvency Act (Canada), seeks relief under the Companies’ Creditors Arrangement Act (Canada), the Winding Up Act (Canada) or any other bankruptcy, insolvency or analogous law in Canada or the United States, files a petition or proposal to take advantage of any act of insolvency, consents to or acquiesces in the appointment of a trustee, receiver, receiver and manager, interim receiver, custodian or other person with similar powers over all or any substantial portion of its assets, files a petition or otherwise commences any proceeding seeking any reorganization, arrangement, composition or readjustment under any applicable bankruptcy, insolvency, moratorium, reorganization or other similar law affecting creditor’s rights or consents to, or acquiesces in, the filing of such a petition; or if a petition in bankruptcy is filed or presented against the Market Participant or any Guarantor;

(h) there is instituted by or against the Market Participant or any Guarantor any formal or informal proceeding for the dissolution or liquidation of, settlement of claims against, or winding up of the affairs of, the Market Participant or any Guarantor, or a resolution is passed for dissolution, liquidation or winding up the Market Participant or any Guarantor;

(i) the Market Participant or any Guarantor ceases or threatens to cease to carry on business or makes or agrees to make a bulk sale of assets or commits or threatens to commit an act of bankruptcy;

(j) a receiver, receiver and manager or interim receiver is appointed for all or any part of the property, assets or undertaking of the Market Participant or any Guarantor;

(k) the Market Participant creates or permits to exist any charge, security interest, lien, encumbrance or claim against any of the collateral charged under the Security which ranks or could in any event rank in priority to or pari passu with the Security; or

(l) the holder of any charge, security interest, lien, encumbrance or claim against any of the collateral charged under the Security does anything to enforce or realize on such charge, security interest, lien, encumbrance or claim.

10. Upon the occurrence of a Cancellation Event, the Proposed Project shall be immediately deemed to have been cancelled, and the TFO, without limiting or restricting other rights or remedies under contract, at law or in equity,

(a) must:

(i) refuse to continue to perform any Project Work;

(ii) demand immediate payment of all Cancellation Costs; and

(iii) if applicable, demand immediate payment under any guarantee granted to the TFO;

and

(b) may do one or both of the following:

(iv) exercise its rights under all or any part of the Security, and any other security in respect of the Proposed Project provided to the TFO by the Market Participant under separate construction commitment agreements; and
(v) commence such legal actions or proceedings against the Market Participant or the Guarantor as it determines.

11. The Market Participant shall forthwith, upon demand having been made therefore by the TFO, pay the Cancellation Costs to the TFO. If the Market Participant fails to pay to the TFO the Cancellation Costs upon demand, the TFO shall have remedies available pursuant to the ISO Tariff and may charge the Market Participant interest calculated at the Bank of Montreal prime rate plus 6% on all amounts outstanding from the date of demand to the date of payment to the TFO.

12. Upon the occurrence of a Cancellation Event the TFO shall use, and shall cause its contractors to use, reasonable commercial efforts to minimize the amount of the Cancellation Costs to the extent such is within their control.

Representations and Warranties

13. The Market Participant represents and warrants to the TFO as follows:

(a) the Market Participant is a duly incorporated or organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or organization;

(b) the Security is provided to the TFO free and clear of any and all security interests, mortgages, liens, charges, and encumbrance of any nature;

(c) this Agreement has been duly authorized, executed and delivered by the Market Participant and constitutes a legal, valid and binding obligation of the Market Participant, enforceable against it in accordance with its terms, except to the extent that such enforceability may be limited by bankruptcy, insolvency, winding-up, reorganization, and similar laws affecting the enforceability of creditors' rights generally and the availability of equitable remedies such as specific performance or injunction; and

(d) the authorization, execution and performance by the Market Participant of this Agreement:

(i) does not and will not violate any laws applicable to the Market Participant; and

(ii) is not in contravention of its constating documents or its by-laws or the provisions of any loan agreement or other agreement to which it is a party or by which it is bound.

14. The TFO represents and warrants to the Market Participant as follows:

(a) the TFO is a duly incorporated or organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or organization;

(b) this Agreement has been duly authorized, executed and delivered by the TFO and constitutes a legal, valid and binding obligation of the TFO, enforceable against it in accordance with its terms, except to the extent that such enforceability may be limited by bankruptcy, insolvency, winding-up, reorganization, and similar laws affecting the enforceability of creditors' rights generally and the availability of equitable remedies such as specific performance or injunction; and

(c) the authorization, execution and performance by the TFO of this Agreement:

(i) does not and will not violate any laws applicable to the TFO; and
(ii) is not in contravention of its constating documents or its by-laws or the provisions of any loan agreement or other agreement to which it is a party or by which it is bound.

General

15. The Market Participant will pay for the TFO’s legal fees (on a solicitor and client basis) and other costs, charges and expenses in respect of the enforcement of this Agreement and the Security by the TFO.

16. In this Agreement:

(a) any notice or communication required or permitted to be given under this Agreement will be in writing and will be considered to have been duly given if delivered by hand or courier, transmitted by facsimile transmission address or facsimile transmission number, or delivered by e-mail, of each party set out below:

(i) if to the Market Participant:

  •
  Attention: •
  Fax No: •
  E-mail: •

(ii) if to the TFO:

  •
  Attention: •
  Fax No: •
  E-mail: •

(iii) if to the ISO:

  Alberta Electric System Operator
  2500, 330 – 5th Ave SW
  Calgary, Alberta T2P 0L4
  Attention: •
  Fax No: •
  E-mail: •

(iv) to such other address or facsimile transmission number as any party may designate by providing notice of the same to all parties.

(b) notice or communication will be considered to have been received if delivered by hand or courier during business hours on a business day, upon receipt by a responsible representative of the receiver, and if not delivered during business hours, upon the commencement of business on the next business day, and if sent by facsimile transmission or e-mail during business hours on a business day, upon the sender receiving confirmation of the transmission or e-mail delivery, and if not transmitted during business hours, upon the commencement of business on the next business day.

17. This Agreement may not be assigned by the Market Participant without the prior written consent of the TFO.

18. This Agreement may not be assigned by the TFO without the prior written consent of the Market Participant, except that the TFO may assign its interest in this Agreement to the ISO without the consent of the Market Participant.
19. This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

20. No failure or delay on the TFO’s part in exercising any power or right hereunder will operate as a waiver thereof.

21. The TFO’s rights and remedies hereunder are cumulative and not exclusive of any rights or remedies at law or in equity.

22. Time is of the essence of this Agreement and all documents or instruments delivered hereunder.

23. If at any time any one or more of the provisions hereof is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions hereof will not in any way be affected or impaired thereby to the fullest extent possible by law.

24. This Agreement will be governed by and interpreted in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein. The Market Participant and the TFO submit to the nonexclusive jurisdiction of the Courts of the Province of Alberta and agree to be bound by any suit, action or proceeding commenced in such Courts and by any order or judgment resulting from such suit, action or proceeding, but the foregoing will in no way limit the right of the TFO to commence suits, actions or proceedings based on this Agreement in any jurisdiction it may deem appropriate.

25. This Agreement may be varied or amended only by or pursuant to an agreement in writing signed by the parties hereto.

26. All Schedules attached hereto will be deemed fully a part of this Agreement. The Schedules may be varied or amended provided such amendments are signed by the parties hereto, as provided in the Schedules.

27. This Agreement may be signed in one or more counterparts, originally or by facsimile, each such counterpart taken together will form one and the same agreement.

THE TFO AND THE MARKET PARTICIPANT have executed this Agreement as of the Effective Date:

INSERT FULL NAME OF TFO

By: ____________________________
Name (print): ____________________
Title (print): ____________________

INSERT FULL NAME OF MARKET PARTICIPANT

By: ____________________________
Name (print): ____________________
Title (print): ____________________
SCHEDULE “A”

To the Construction Commitment Agreement

Between

[Insert Name of Legal Owner of the Transmission Facility], a corporation incorporated under the laws of the Province of Alberta (hereinafter referred to as the “TFO”)

-and-

[Insert name of Market Participant], a corporation incorporated under the laws of the Province of ● (hereinafter referred to as the “Market Participant”)

PROJECT WORK

For Project [insert project name]

[Author: If this is a replacement Schedule “A” keep the following language:

The TFO and Market Participant have agreed to amend the Construction Commitment Agreement pursuant to the terms and conditions contained herein.

In consideration of the premises hereto, the mutual covenants and agreements herein after set forth and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each of the parties hereto), the parties hereby agree to amend this Schedule “A” as provided below.

Effective as of the date hereof, and upon execution of this amended Schedule “A”, the Schedule “A” executed on [insert date] is deleted in its entirety and replaced with this Schedule “A” dated [insert date].]

This Schedule “A” describes the Project Work to be performed by the TFO for the Proposed Project. The Project Work as referenced in the Construction Commitment Agreement includes the following:

[Insert amounts next to applicable selections]

<table>
<thead>
<tr>
<th>Project Work</th>
<th>Estimated Financial Obligation</th>
<th>Date of Issue</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Preparing Connection Proposal</td>
<td>Amount in words Canadian dollars plus GST (CND $ Amount in numbers + GST).</td>
<td></td>
</tr>
<tr>
<td>□ Connection Study Scope</td>
<td>□ Preparing Engineering Studies [add description of studies]</td>
<td></td>
</tr>
<tr>
<td>□ Preparation of a proposal to provide services</td>
<td>Amount in words Canadian dollars plus GST (CND $ Amount in numbers + GST).</td>
<td></td>
</tr>
<tr>
<td>□ Preparation of participant involvement program</td>
<td>Amount in words Canadian dollars plus GST (CND $ Amount in numbers + GST).</td>
<td></td>
</tr>
<tr>
<td>□ Preparation of a facility application</td>
<td>Amount in words Canadian dollars plus GST (CND $ Amount in numbers + GST).</td>
<td></td>
</tr>
</tbody>
</table>
## Project Work Estimated Financial Obligation Date of Issue

<table>
<thead>
<tr>
<th>Project Work</th>
<th>Estimated Financial Obligation</th>
<th>Date of Issue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Additional costs for receipt of Permit and License including anticipated hearing costs (if required): [add description]</td>
<td>Amount in words Canadian dollars plus GST (CND $ Amount in numbers + GST)</td>
<td></td>
</tr>
<tr>
<td>Construction Costs – Step 1</td>
<td>Amount in words Canadian dollars plus GST (CND $ Amount in numbers + GST)</td>
<td></td>
</tr>
<tr>
<td>Construction Costs – Step 2</td>
<td>Amount in words Canadian dollars plus GST (CND $ Amount in numbers + GST)</td>
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</tr>
<tr>
<td>Construction Costs – Step 3</td>
<td>Amount in words Canadian dollars plus GST (CND $ Amount in numbers + GST)</td>
<td></td>
</tr>
<tr>
<td>[Additional construction steps as required]</td>
<td>Amount in words Canadian dollars plus GST (CND $ Amount in numbers + GST)</td>
<td></td>
</tr>
<tr>
<td>Total Financial Obligation as of [Insert Date]</td>
<td></td>
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</tr>
</tbody>
</table>

Provided the TFO has confirmed to the ISO that the Market Participant has delivered the Financial Obligation for the Project Work to the TFO, and provided that the Cancellation Costs for the Project Work not exceed [Insert Project total in words] Canadian dollars plus GST (CDN $ [Project total in numbers] + GST), the ISO will direct the TFO to proceed with Project Work issued prior to permit and license being granted by the Commission.

The required Construction Contribution, if any, is set out on Schedule “B”.

IN WITNESS WHEREOF, the parties acknowledge that they have read this amended Schedule “A”, understand it, and agree to be bound by it and have caused it to be executed by their duly authorized representatives effective as of the date and year above written.

**INSERT FULL NAME OF TFO**

By: ____________________________
Name (print): ____________________________
Title (print): ____________________________

**INSERT FULL NAME OF MARKET PARTICIPANT**

By: ____________________________
Name (print): ____________________________
Title (print): ____________________________
SCHEDULE “B”
To the Construction Commitment Agreement

Between

[Insert Name of Legal Owner of the Transmission Facility], A corporation incorporated under the laws of the Province of Alberta (hereinafter referred to as the “TFO”)

-and-

[Insert name of Market Participant], a corporation incorporated under the laws of the Province of ● (hereinafter referred to as the “Market Participant”)

SECURITY

For Project [insert project name]

[Author: If this is a replacement Schedule “B” keep the following language:]

The TFO and Market Participant have agreed to amend the Construction Commitment Agreement pursuant to the terms and conditions contained herein.

In consideration of the premises hereto, the mutual covenants and agreements herein after set forth and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each of the parties hereto), the parties hereby agree to amend this Schedule “B” as provided below.

Effective as of the date hereof, and upon execution of this amended Schedule “B”, the Schedule “B” executed on [insert date] is deleted in its entirety and replaced with this Schedule “B” dated [insert date].

This Schedule “B” describes the Security to be provided to the TFO as of [Insert Current Date]. The Security as referenced in the Construction Commitment Agreement includes the following:

1. Pursuant to section 5.3(1) of the ISO Tariff, A Legal Owner of a Distribution Facility is not required to provide Financial Security up to the maximum local investment.

2. Upon execution of the Construction Commitment Agreement, the Market Participant shall provide to the TFO one or more of the following Security as determined by the ISO Tariff:

   (a) Construction Contribution (cash payment) in the amount of Amount in words Canadian dollars plus GST (CDN $ Amount in numbers + GST); and

   (b) Financial Security in one or more of the following forms:

      (i) A letter of credit in the amount of Amount in words Canadian dollars plus GST (CDN $ Amount in numbers + GST).

      (ii) Cash security in the amount of Amount in words Canadian dollars plus GST (CDN $ Amount in numbers + GST).

      (iii) A guarantee from the Market Participant in the amount of Amount in words Canadian dollars plus GST (CDN $ Amount in numbers + GST).
(iv) A guarantee from [name of company] as guarantor on behalf of the Market Participant and in favour of the TFO in the amount of Amount in words Canadian dollars plus GST (CDN $ Amount in numbers + GST).

3. The Market Participant shall execute and if applicable, cause to have executed all security agreements and documentation in form and substance required from time to time by the TFO in its sole absolute discretion.

IN WITNESS WHEREOF, the parties acknowledge that they have read this amended Schedule “B”, understand it, and agree to be bound by it and have caused it to be executed by their duly authorized representatives effective as of the date and year above written.

INSERT FULL NAME OF TFO

By: ________________________________
Name (print): ________________________________
Title (print): ________________________________

INSERT FULL NAME OF MARKET PARTICIPANT

By: ________________________________
Name (print): ________________________________
Title (print): ________________________________