



# Discussion Paper

## Competitive Procurement Process for Critical Transmission Infrastructure

*September 17, 2010*



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## 1.0 Background: The Electric Statutes Amendment Act, 2009

In December 2008, the Government of Alberta (**GOA**) introduced the Provincial Energy Strategy, a forward-thinking strategy that signaled a new energy future for the province. Electricity is at the heart of it. The GOA's vision of electricity in the Provincial Energy Strategy includes substantial upgrades to the transmission system. Approving the need for critical transmission infrastructure (**CTI**) is an important first step in achieving this vision. The introduction of the *Electric Statutes Amendment Act* (**ESA Act**) in November 2009 provided additional legislation to ensure this much-needed CTI is built.

Under the ESA Act, the GOA is responsible for approving the need for CTI. This is no different than the GOA approving other publicly needed infrastructure such as highways, schools and hospitals.

The Alberta Electric System Operator (**AESO**) is responsible for forecasting the future supply of, and demand for, electricity and determining what transmission enhancements are needed to meet that demand and to interconnect them as new supply comes on line.

Transmission facilities can be designated as CTI in one of two ways:

1. Specific projects set out in the Schedule to the *Electric Utilities Act* (**EUA**) are designated as CTI. The Schedule to the EUA designates the following projects as CTI:
  - a) Two new high voltage direct current lines between Edmonton and Calgary
  - b) One new alternating current line between Edmonton and the Heartland area
  - c) Two new alternating current lines between Edmonton and the Fort McMurray area
  - d) One substation in the Calgary area
2. The EUA provides that the Lieutenant Governor in Council (**LGIC**) may designate a transmission facility as CTI subject to that facility meeting certain conditions.

Under the ESA Act, the regulatory approval process for the needs stage of a CTI project has changed in that the need for these projects has effectively been approved. The traditional approval process in place prior to the ESA Act (and which continues today except in the case of CTI projects) requires any proposed transmission project in Alberta to proceed through a two-stage approval process.

Stage 1:

Needs stage where the AESO submits a Needs Identification Document (**NID**) to the Alberta Utilities Commission (**AUC**) for approval.

Stage 2:

Facility application stage where the AESO directs a transmission facility owner<sup>1</sup> (**TFO**) to prepare and submit a facility application (**FA**) to the AUC for approval.<sup>2</sup>

Either by virtue of its inclusion in the Schedule to the EUA or designation by the LGIC, the need for proposed CTI does not require AUC approval. The regulatory process for FA approval by the AUC, including siting and environmental review, is substantially unchanged and the AUC continues to play a key role in approving FAs.

In addition to changes to the EUA that allow the LGIC to designate a proposed transmission facility as CTI, the EUA was also amended to provide additional authority for the LGIC to make regulations on a broad range of subjects relating generally to transmission facilities and specifically to CTI.<sup>3</sup>

Specifically, Section 142(1)(l)(v.3) of the EUA now provides that the LGIC may make regulations respecting the determination of who may apply to the AUC for authority to construct and/or operate transmission facilities, including:

1. who may make the determination
2. determining who may apply, based on
  - a) a competitive process or
  - b) some other method or process

CTI must be developed in a timely and cost-effective manner while maintaining the integrity of the transmission system as a whole. In anticipation of the requirement to advance development of the CTI projects in the Schedule to the EUA via a competitive procurement process, the AESO is developing a process that may be applied to CTI projects (**Process**). The Process will help facilitate selection of a successful bidder who will assume responsibility, in whole or in part, for all or some of designing, constructing, financing, owning and operating the new CTI.

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<sup>1</sup> A TFO within whose service territory the proposed transmission project facilities are to be located.

<sup>2</sup> The regulatory approval process for non-CTI transmission projects allows for the combined filing of a NID application with the related FA, which allows the AUC to consider them in a combined manner when making its determination on whether to approve both applications.

<sup>3</sup> The authority to make such regulations, while clearly applicable to CTI, also extends to any transmission facility: EUA, subparagraphs 142(1)(l)(v)(A), (v.3), (v.4), (v.5).

In the context of CTI projects, competitive procurement refers to provision of a specific transmission infrastructure via a process that enables all deemed qualified bidders to compete in a fair, transparent and open environment for the right to build, own and operate or transfer the specific transmission infrastructure.

Competitive procurement of transmission facilities is a complex undertaking with financial, regulatory and engineering implications. Developing a fair Process will require participation, input and support from various stakeholders. The AESO anticipates this Process could be completed by autumn 2011.

## 1.1 Purpose of Discussion Paper

This Discussion Paper outlines two alternative frameworks for structuring the Process for CTI. Potential revisions to the roles and responsibilities of agencies such as the AESO and the AUC in facilitating such a Process are discussed. In addition, the Discussion Paper identifies a number of issues and concerns.

This Discussion Paper is not intended to form part of any specific process for the future procurement of CTI; rather, it sets out two concepts, identifies issues and invites comments. The Discussion Paper will evolve based on input from various stakeholders as the AESO considers the responses received and takes them into account when developing and optimizing the Process.

The AESO's focus is to ensure the Process ultimately adopted yields timely and cost-effective investment in CTI. The AESO recognizes a thorough analysis of options is necessary to arrive at a sustainable long-term framework. The AESO has obtained information from other jurisdictions<sup>4</sup> where similar regulatory frameworks are being considered or implemented and applicable lessons learned will be considered by the AESO when developing the Process.

In designing the Process, as in all its undertakings, the AESO is mindful of ensuring the most appropriate outcome for all market participants. Accordingly, the Process must be designed to increase competitive pressures to continue to deliver increased innovation and provide the most cost-effective outcome for Albertans, while ensuring the Alberta Interconnected Electric System is operated in a safe and reliable manner.

The AESO's next steps are to:

1. Seek and consider comments from stakeholders on the concepts to develop the Process.
2. Develop a Process. The AESO anticipates the Process will be submitted to the AUC for approval once further regulations are developed. The AESO intends to approach this consultation in the same way it does with Independent System Operator (ISO) Rules.

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<sup>4</sup> Electric Reliability Council of Texas (Competitive Renewable Energy Zones), Ontario Energy Board and the Office of Gas and Electricity markets (UK).

## 1.2 Proposed Implementation Schedule

The AESO intends to implement the Process for the first CTI project, which consists of two single circuit 500 kilovolt transmission facilities from the Edmonton region to the Fort McMurray region. This project is described in Section 4 of the EUA Schedule. The following stakeholder consultation schedule is prepared based on the AESO's best judgment and consideration that adequate time should be allowed for front-end consultation to achieve a quality implementation process.

***The AESO would like any stakeholder comments regarding the proposed schedule below.***

<b>Consultation Activities</b>	<b>Proposed Dates</b>
Step 1: The AESO identified a requirement to develop a Process for transmission infrastructure.	EUA, December 2009
Step 2: The AESO issues an invitation to stakeholders to participate in the ISO Rules consultation process. The invitation will include briefing materials (the Discussion Paper, Terms of Reference and Stakeholder Comment/AESO Replies Matrix).	September 17, 2010
Step 3: Stakeholders notify the AESO of their intent to participate.	September 29, 2010
Step 4: The AESO holds an initial stakeholder meeting.	October 13, 2010
Step 5: Stakeholders provide written comments to the AESO.	November 4, 2010
Step 6: The AESO replies to stakeholder comments and determines if further consultation is appropriate.	November 25, 2010
Step 7: The AESO holds an additional meeting prior to issuing its Recommendation Paper.	December 1, 2010
Step 8: The AESO issues its Recommendation Paper to stakeholders for review and comment (Stakeholder Comment/AESO Replies Matrix attached).	January 10, 2011
Step 9: Stakeholders provide comments on the Recommendation Paper and the AESO responds.	February 9, 2011 – comments  March 9, 2011 – AESO replies

## 2.0 Design of a Process for CTI in Alberta

### 2.1 Objectives and Principles

1. Developing the Process for CTI<sup>5</sup> in Alberta must be open and consultative. It must provide opportunities for stakeholders to participate and make their views known to the AESO and other authorities responsible for developing and implementing the process. The AESO will consider all stakeholder comments and make any necessary determinations regarding the Process according to the Schedule set forth in Section 1.2. The ISO Rules consultation process will involve a full discussion of stakeholders' views in order to enable the AESO to make the best decision in the context of its statutory mandate.
2. Goals for the Process for CTI are to:
  - a) Create cost minimization without adversely affecting system reliability.
  - b) Create opportunity for innovation.
  - c) Create opportunity for new entrants.
  - d) Foster regulatory predictability.
  - e) Be administratively straightforward and efficient.
  - f) Allocate risks fairly.
  - g) Foster efficient investment, operation, maintenance and use of transmission assets.
  - h) Be clear on the accountabilities of various parties involved in the project.
  - i) Achieve a reasonable level of transparency and consistency over time.
  - j) Result in the development of transmission infrastructure that meets or exceeds all of the performance and reliability standards and requirements of the AESO and other regulatory bodies, including ISO Rules, policies and procedures.
3. The form of the contract applied to critical transmission assets procured on a competitive basis shall:
  - a) Be based on a predictable revenue stream, potentially with a symmetric incentive mechanism, or on the traditional rate base return with competitively priced initial investment.

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<sup>5</sup> The scope of a CTI project includes turnkey project development including, but not limited to, transmission line, substation/ switchyard and associated telecom facilities.

- b) Take into account performance standards (safety, quality, cost, service and reliability) consistent with those required for other transmission assets built in Alberta.
  - c) Allow for innovation and creativity throughout the lifecycle of the contract including, but not limited to, financial engineering, adoption of new technology, supply chain management and ability to attract a talented workforce.
  - d) Consider obligations typically assumed by the incumbent TFO, including environmental obligations and mandatory consultation with the aboriginal peoples of Canada under Section 35 of the *Constitution Act* (Canada).
4. The selection criteria for the successful project developer(s) will be transparent and address the above principles. Detailed weightings for each selection attribute will be developed following stakeholder consultation and incorporated in the tender documents.

***The AESO is seeking stakeholder comments regarding the Objectives and Principles.***

## **2.2 Discussion of Alternatives**

This Discussion Paper discusses two alternatives that could be considered as a Process for CTI projects.

1. Design-build-finance-own and maintain (**Own Alternative**).
2. Design-build-transfer to an incumbent TFO (**EPC Alternative**).

The suitability of either alternative depends on many factors and related complexities including but not limited to:

- project schedule
- need for interconnection with loads and generators
- acquisition of land
- impact on grid reliability during normal and emergency conditions

Other options may exist but the above alternatives provide a reasonable balance between high-level uniformity in the regulatory requirements, long-term operational consistency and reduced lifecycle costs. The AESO would continue to have a key oversight role as it does now with incumbent TFOs with the above alternatives, which includes assigning responsibility for a new competitively bid project to a party who is or would contractually function like a TFO or on condition that the CTI project, upon completion, would be assigned/transferred to an incumbent TFO.

***The AESO is seeking stakeholder comments regarding additional alternatives, including associated advantages and disadvantages for the Process.***

Implementing either alternative will require changes to the EUA and the *Transmission Regulation (T-Reg)*. It is assumed these changes will be in place before the Process is fully implemented. The AESO's proposed list of required regulatory changes is outlined in Appendix B. The AESO, through the stakeholder consultation process, will further develop and refine this list. Conceptually, the AESO proposes a regulatory check-and-balance approach where the AESO develops and implements a Process that the AUC approves prior to implementation.

### **Alternative 1: Own Alternative**

Under this model, an entity (**Selected Entity**) would be selected via a competitive tender process to perform the duties and responsibilities of a TFO in respect of the CTI, unless otherwise required in the Own Contract (as defined below). Duties and responsibilities would be those required to be performed by the person determined under Sections 24 or 24.1 of the T-Reg. The competitive tender process would include a means or mechanism for assumption of those duties and responsibilities by the Selected Entity.

The Process for the Own Alternative would include the following:

Step 1: The AESO develops a Process for the Own Alternative and submits it to the AUC for approval.

Step 2: Subject to the AUC's approval of the Process (**Approved Process**) and in accordance with eligibility requirements outlined in the Approved Process, the AESO issues a Request for Qualifications (**RFQ**).<sup>6</sup> The RFQ's proposed structure is described in Appendix A. Upon receiving responses to the RFQ, the AESO establishes a short list of eligible entities (**Eligible Bidders**).<sup>7</sup> The selection criteria for preparing the short list will be included in the Approved Process.

Step 3: The AESO develops a Request for Proposal (**RFP**) for the CTI project and issues it to Eligible Bidders.

Step 4: Eligible Bidders prepare and submit proposals in response to the RFP (**Proposals**).

Step 5: The AESO evaluates qualifying Proposals in accordance with the Approved Process.<sup>8</sup>

Step 6: In accordance with the Approved Process, the AESO may accept a qualified Proposal, reject all qualified Proposals or repeat the RFP process.<sup>9</sup>

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<sup>6</sup> A process will be developed regarding sending out RFQs (including to whom).

<sup>7</sup> An Eligible Bidder may include an incumbent TFO.

<sup>8</sup> The AESO has assumed that in the event of no Eligible Bidders or qualifying Proposals, the default mechanism for determining who is eligible to apply will be either by ministerial determination (Section 24.1 of the EUA) or geographical area (Section 24 of the EUA).

Step 7: In accordance with the Approved Process, the Selected Entity would be required to enter into a contract with the AESO to “design, build, own, finance and maintain” the CTI project (**Own Contract**). Included in this Own Contract would be items such as:

- a) Preparing and filing a FA for the CTI project.<sup>10</sup>
- b) Making the transmission facility available in a timely manner for the AESO’s use.
- c) Submitting an application under Section 37 of the EUA for approval of the payment obligations under the Own Contract as its tariff.

***The AESO is seeking stakeholder comments regarding these process steps.***

Advantages and disadvantages of the Own Alternative are summarized below:

Advantages

- a) Potential for Improved Full Lifecycle Efficiencies

The Own Alternative Process opens up the transmission infrastructure ownership to new entrants and creates competition. Determining the Selected Entity will be based on competitive bidding for the life of the project. Greater lifecycle efficiencies would be expected as a result of innovative financing, engineering design, construction management and/or operations and maintenance practices that may be introduced.

Development and ownership of transmission systems requires a multi-faceted skill set ranging from financing, operations and supply chain capabilities to environmental and land management as well as public and community relations. An innovative developer may be expected to efficiently affect tradeoffs between these elements when preparing a competitive and sustainable bid proposal.

- b) Selected Entity as Relationship Holder with Landowners and Other Stakeholders

One of the most critical components of the FA process involves procurement of land access and rights-of-way (**RoW**) needed to site facilities. Assigning responsibility for this component to the Selected Entity would, from the outset, position the Selected Entity as the relationship holder with all affected landowners. It would also require the Selected Entity to manage the ensuing negotiations in a responsible and respectful way, which includes a commitment to ongoing stakeholder consultation that helps determine the best route with the

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<sup>9</sup> In the event no qualified Proposals are received, the AESO may repeat the RFP process, direct assign the project to an incumbent TFO or choose options that will ensure cost-efficient development of the project.

<sup>10</sup> These steps are subject to further discussion as the AUC-approved competitive procurement process is finalized.

least overall impact. This approach encourages relationship building as those potentially affected landowners could gain comfort and confidence from dealing with the ultimate project owner. The Selected Entity (as facilities applicant and prospective project owner) would be the counterparty to all RoW and land option agreements, which would facilitate more efficient negotiations by avoiding the need for ensuing agreements to immediately be assigned to the incumbent TFO at the conclusion of the Process.

Allowing for this direct relationship between project proponent and affected landowner could potentially result in stronger relationships, a higher degree of trust and more timely issue resolution between parties. Similarly, the Selected Entities will be the relationship holders with other stakeholders such as future industrial customers, generators, aboriginal people and other entities directly impacted by the project.

***The AESO is seeking stakeholder comments regarding these advantages, as well as any other advantages and disadvantages the stakeholder believes are appropriate.***

#### Disadvantages

##### a) Schedule

Bundling responsibility for the FA and the corresponding land acquisition and environmental permitting into a comprehensive project package, along with responsibility for designing and building transmission projects, is consistent with what an incumbent TFO does today. The Process will now precede this effort. It is anticipated it will take approximately one year to identify a Selected Entity and initiate a FA.<sup>11</sup> This extra step can be managed by incorporating it into the overall planning process.

##### b) Added Uncertainty Introduced with Regulatory and Other Risks

It is preferred that the Selected Entity be required to submit a predictable price bid for the full project development. Unless otherwise accommodated through special provisions in the Own Contract, the Selected Entity should not be permitted to pass through added costs due to delays, major changes and modifications to alignment and facility designs and/or other unexpected burdens/requirements emanating from the FA process. The risks of a protracted land acquisition process and/or other delays, and additional costs arising from compulsory measures needed to address and mitigate landowner concerns and environmental impacts, have the potential to impose uncertainties on the project. The Selected Entity must account for these uncertainties when developing the final bid. Requiring the Selected Entity to bear these risks may result in a significant risk premium being charged to consumers, which has the potential to negate other benefits and efficiencies derived from the Process.

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<sup>11</sup> It is anticipated it will take six months to one year to develop and finalize the competitive procurement process and related documentation before it may be implemented. As a result of the above timeframe, there may be a scheduling delay with the first CTI project that is competitively procured.

This uncertainty will be managed through the RFQ screening process. Eligible Bidders must demonstrate experience and skills needed to acquire RoW for linear infrastructure such as electric transmission and distribution lines, pipelines, canals, roads etc. In addition, the Own Contract can be structured so all work leading to the FA can be contracted on a risk-sharing<sup>12</sup> basis with the AESO providing ongoing review and scrutiny, with the remainder based on fixed price. Potential bidders can manage risk by documenting their assumptions associated with the phases of the project that involve regulatory approval and land acquisition. In addition, the AUC-approved Process will reduce some of these uncertainties.

***The AESO is seeking stakeholder comments regarding efficient risk-sharing options that will optimize the overall cost of CTI projects.***

***The AESO is also seeking stakeholder comments regarding these disadvantages, as well as any other advantages and disadvantages the stakeholder believes are appropriate.***

#### **Alternative 2: EPC Alternative**

Under this model, the AESO would undergo a competitive tender process to select an entity (**EPC Entity**) to perform some of the duties and responsibilities of a TFO. These duties and responsibilities would be those required to be performed by the person determined under Sections 24 or 24.1 of the T-Reg. The only exception would be that the EPC Entity would not ultimately own and operate the completed CTI and would transfer its interest to the incumbent TFO (**Incumbent TFO**) upon completion of construction and commissioning. The EPC Entity will receive compensation from the Incumbent TFO as directed by the AESO based on satisfactory completion of previously established milestones.

The Process for the EPC Alternative would include the following steps:

Steps 1 to 6: Similar to Own Alternative.

Step 7: In accordance with the Approved Process, the EPC Entity would be required to enter into a contract to “design and build” the CTI project (**EPC Contract**). Included in this EPC Contract would be:

- a) EPC Entity and the Incumbent TFO coordinate the preparation and filing of the FA for the CTI project.
- b) A provision outlining the transfer of the completed CTI project to the Incumbent TFO.
- c) The source of construction financing.

The AESO envisions this alternative would require cooperation between the Incumbent TFO and the EPC Entity during certain phases of the CTI project. To

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<sup>12</sup> One of the risk-sharing options includes cost plus fixed fee with provisions allowing the AESO to audit the Selected Entity's books and records.

prevent any appearance of self-dealing between the EPC Entity and the Incumbent TFO, the AESO, or its agent, will oversee all coordination and transactions.

Step 8: Once the AUC approves the FA, the EPC Entity builds the CTI facility and transfers it to the Incumbent TFO, pursuant to the terms of the EPC Contract.

***The AESO is seeking stakeholder comments regarding these process steps.***

Advantages and disadvantages of the EPC Alternative are summarized below:

Advantages

a) Potential for Improved Design and Construction Efficiencies

The development and construction expenditure represents a significant component of the overall lifecycle cost of a transmission facility. The EPC Alternative would ensure a competitive turnkey price by the EPC Entity, which will minimize development and construction costs.

b) Operational Familiarity

The Incumbent TFO's operational familiarity can be continually employed in the ongoing maintenance and operation of the infrastructure.

c) Establishment of Long-Term Stakeholder Relations

As a result of the EPC Contract, the Incumbent TFO will have an indirect<sup>13</sup> coordination/consultation role with the EPC Entity in the early stages of the CTI project. Early involvement by the Incumbent TFO should lay the foundation for positive long-term relationships with stakeholders as the Incumbent TFO will be known to stakeholders due to its involvement in the consultation process to support siting, land acquisition and filing of the FA.

***The AESO is seeking stakeholder comments regarding these advantages, as well as any other advantages and disadvantages the stakeholder believes are appropriate.***

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<sup>13</sup> The incumbent TFO will not have any decision-making authority in this relationship.

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## Disadvantages

### a) Construction Capital

Availability and/or the associated cost premium of construction capital by the EPC Entity may be an issue. This can be addressed through the EPC Contract by having the Incumbent TFO, with direction from the AESO, provide the construction financing.

### b) No Potential for Increased Financing Efficiencies

Financial engineering is a key driver for cost minimization of a major infrastructure project. Under this alternative, the Incumbent TFO will finance the project following the current practices of regulated financing and tax factors. This limits the opportunity for financial innovation and the capital structure for project financing.

### c) Piecemeal Approach May Lead to Sub-Optimization

Having one entity responsible for development and another responsible for ongoing operations and maintenance creates opposing incentives that will need to be managed when selecting the EPC Entity and structuring the EPC Contract. An example is the EPC Entity may select an engineering solution that results in a lower initial capital cost (which makes the bid appear competitive) but a higher ongoing maintenance cost. The EPC Entity will be incented to achieve the lowest cost to be awarded the project. Some cost reductions may be suboptimal from a lifecycle perspective if they result in higher operating or maintenance costs for the Incumbent TFO after the project is transferred. The bid documents will be required to be more detailed and bids reviews more intense to minimize the possibility of accepting a low bid that has increased future costs. The AESO, at its discretion, may engage the Incumbent TFO or an independent third party to validate the bid.

### d) Hand-off of Relationship with Landowners and Other Stakeholders

Consultations, permitting and negotiations with landowners and other stakeholders would occur during the development stage with the EPC Entity. The fact that the EPC Entity would not be performing the ongoing operation and maintenance may be a disadvantage to building relationships. Once the facility is transferred to an Incumbent TFO, it would assume all responsibilities previously assumed by the EPC Entity. Care would be required during the transfer to ensure relationships are not negatively affected. This risk can be significantly mitigated by the role of the Incumbent TFO as outlined in the EPC Contract in Step 7 above.

### e) Issues Related to Warranty Provision

The EPC Entity will also have to provide a warranty that the CTI facility meets certain standards/criteria, as determined in the EPC Contract, when the CTI facility is transferred to the Incumbent TFO. The warranty will need to be for a specific duration and should commence on the date of transfer of the CTI facility

to the Incumbent TFO. As added incentive to ensure the EPC Entity complies with the warranty provision, the EPC Contract may be drafted such that a portion of the funds to be paid to the EPC Entity by the Incumbent TFO will be held in escrow during the warranty period and shall be released upon the expiration of such period. The tender documents must be structured to ensure ratepayers are assuming any asymmetric risk.

***The AESO is seeking stakeholder comments regarding these disadvantages, as well as any other advantages and disadvantages the stakeholder believes are appropriate.***

## 3.0 Additional Issues for Consideration

### 3.1 Issues Applicable to the Own Alternative and the EPC Alternative

In addition to the regulatory issues highlighted in both the Own Alternative and the EPC Alternative, the following additional issues should be considered:

1. What will be the AUC's role in overseeing, adjudicating and approving of the Process? While competitive procurement is not intended to bypass the AUC's role, it will introduce significant changes to convention that must be anticipated and accommodated. (As described in this Discussion Paper, the AESO proposes a regulatory check-and-balance approach without making the process burdensome, time consuming and bureaucratic).
2. What role, if any, will the AUC have over the life of the contract?
3. What provisions are required in the event of default? Which party assumes ownership? What protections are required to ensure performance (e.g., collateral and/or letters of credit, etc.)?
4. How will an affiliate rule be structured to prevent any undue advantage for an incumbent TFO? The affiliate rule will describe how the operational and financial firewall will be structured between the TFO's regulated operations and the competitive procurement operations.

***The AESO is seeking stakeholder comments on these issues, as well as identification of any other issues that need to be considered.***

### 3.2 Issues Applicable to the Own Alternative

With respect to the Own Alternative, these additional issues should be considered:

1. Will the Selected Entity be subject to the same duties and responsibilities as the Incumbent TFOs (technical, financial and other reporting)? If not, then how will this entity be defined to allow it to be exempt from certain provisions?
2. How would the facilities be operated? What are the requirements of operating agreements with the interconnecting incumbent TFO(s) to provide integrated services?
3. What happens at the end of the contract term vis-à-vis ownership, rights and obligations?
4. How will force majeure be defined? What force majeure provisions/rights will

be included?

5. What assignment rights and obligations will be set (contract and land easements)?

***The AESO is seeking stakeholder comments on these issues, as well as identification of any other issues that need to be considered.***

### 3.3 Resolution of Issues

These issues will be discussed at future stakeholder meetings and recommended resolutions will be developed based on stakeholder input. The AESO intends to submit the resolutions of these and other issues identified by stakeholders in its submittal of the Process to the AUC.

## 4.0 Appendices

### 4.1 Appendix A - Structure of the RFQ

The RFQ will be sent to reputable domestic and international transmission developers. To ensure broad participation, the RFQ tender notice will also be published in professional journals and websites. Adequate time will be provided to potential bidders to thoroughly prepare their proposals.

The RFQ sent to potential bidders will include, but is not limited to, the following:

1. Purpose of the RFQ
2. Background: A brief chronology of and relevant reference to the Provincial Energy Strategy and ESA Act will be provided to familiarize potential bidders on the regulatory framework for Alberta's electric industry. This section will include reference to regulatory documents such as the EUA, T-Reg and *Hydro Electricity and Energy Act (HEEA)*. Land rights and environmental-related legal and regulatory documents will be identified.
3. Description of the Selection Process: Criteria for developing the short list and final selection of the successful bidder will be described in detail. The AUC-approved competitive procurement rules, including the decision-making process, will be provided.
4. Description of Project: A high-level description of the project including maps showing the expected routing, high-level technical requirements and estimated in-service dates. It will include the location of interconnections with the Alberta Interconnected Electric System and the requirements thereof, as well as a high-level description of the operating and dispatch protocol.

***The AESO is seeking stakeholder comment on the inclusion of the foregoing in the RFQ, as well as any other information the stakeholder believes should be included.***

Potential bidders will be asked to submit the following information to substantiate their qualifications:

1. Bidder Name and Organization: Description of the bidder's legal business standing and how it proposes to organize for this particular project. If the potential bidder is a consortium, it must provide detailed information on ownership structure, roles and responsibilities and relationship with the parent companies along with the consortium's track record as a whole. The potential bidder will be required to provide evidence that it is or will be registered and authorized to do business in Alberta.
2. Economic and Financial Standing: Demonstration the potential bidder has the necessary financial strength to support the expected expenditure level. Where the bidder proposes a combination of internal and external financing, it must describe, at a high level, the source and viability of such external financing. For consortiums, the financial standing of each parent company as well as their willingness to backstop the project (in whole or in part) will be required.
3. Management and Operational Capabilities: Demonstration the potential bidder has the appropriate management and technical capabilities to develop and, if applicable, own and operate a critical infrastructure asset of similar magnitude and complexities. The bidder will be asked to provide the following, as a minimum, to support its capabilities:
  - a) An overview of the organizational plan including any partnership or contracting of significant work. If third parties are engaged as part of engineering, construction, maintenance and/or operation, their roles and responsibilities with the bidder must be described.
  - b) A list of similar projects the bidder has successfully completed and, where applicable, partners and subcontractors. The bidders will also provide client contact information for each project.
  - c) The resumes of top management personnel who, if awarded the project, would lead development, maintenance and operation.
  - d) Project performance record, which includes, but is not limited to, safety and health, environmental, cost and schedule, and government and public relations.
  - e) Where required, the potential bidder will be asked to provide consultation experience with First Nations or other aboriginal groups. If the potential bidder has no experience in Alberta or Canada, it must provide a description of how it proposes to acquire such expertise.
  - f) An overview of the bidder's experience with regulatory processes, acquisition of land-use rights and landowner and other required stakeholder consultations. If the potential bidder has no experience in Alberta, it must describe how it proposes to acquire such expertise.

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4. Project Development and Execution Plan: The potential bidder will be required to submit a project development plan that will describe how it intends to attract qualified and skilled personnel to address the following key elements of the project while maintaining the in-service date:
    - a) engineering
    - b) site planning and environmental assessment
    - c) permitting
    - d) stakeholder consultations
    - e) land acquisition
    - f) procurement of critical equipment
    - g) construction
    - h) commissioning
    - i) maintenance
    - j) operation
  
  5. Legal Standing, Pending Litigation and Potential Conflict Issues: Demonstration the potential bidder satisfies requirements that it is properly registered and authorized to do business in Alberta, that it is not involved in any relevant material litigation and it does not have any potential conflict of interest that may adversely affect its ability to tender for, own and operate a CTI in Alberta.
  
  6. Certificate: A duly authorized officer is required to confirm the accuracy of the submittal.

***The AESO is seeking stakeholder comment on the inclusion of the foregoing in the response to the RFQ, as well as any other information the stakeholder believes should be included.***

## 4.2 Appendix B - Proposed Regulatory Changes

Suggested amendments to relevant statutes and regulations to provide the appropriate legal authority to implement the Own Alternative and EPC Alternative include:

Alternative	Legislation/Regulation/ Rules	Rationale
Own Alternative/ EPC Alternative	<i>Alberta Utilities Commission Act</i>  EUA  Required AUC rules and ISO Rules	Amendment to allow the AUC to approve (including the process to approve) the Process developed by the AESO as the "Approved Process" and the AESO to prepare and submit an application for such approval.
Own Alternative/ EPC Alternative	EUA, s. 9(6)	The approach for the Own Contract/EPC Contract should be considered to determine if it would fall within this section. Subject to that opinion, the AESO may have to consider if there are regulation-making options that could address this without amending this section.
Own Alternative	EUA, s. 37	Amendment may be required to specify the payment obligations under the Own Contract are the rates to be paid by the AESO for the Selected Entity's CTI facilities.
EPC Alternative	T-Reg	Amendment may be required to authorize the AESO to issue a direction to the Incumbent TFO to enter into a contract with the EPC entity to accept the transfer of the project.
Own Alternative/ EPC Entity	T-Reg, s. 24 and 24(1)	Amend to allow for the Process to determine who is eligible to apply and become or perform the duties and responsibilities of the Selected Entity/EPC Entity with respect to CTI projects.

Alternative	Legislation/Regulation/ Rules	Rationale
Own Alternative/ EPC Alternative	T-Reg, s. 41	<p>The T-Reg generally allows TFOs to recover costs associated with tasks directed by the AESO. This can be construed to be applicable for preparing proposals in response to the AESO-issued RFP for the Process. Since some bidders are not TFOs, this provision will create an unfair advantage for the TFOs.</p> <p>Additionally, with respect to the EPC Alternative, amendments to allow the Incumbent TFO to include the cost it would be required to pay to the EPC Entity for the transfer of the CTI project in its tariff and to recover those costs.</p>
Own Alternative/ EPC Alternative	HEEA	<p>No amendments are necessary as there is no requirement that a person making an application for permit and licence must be a TFO.</p>

***The AESO is seeking stakeholder comment on the foregoing potentially required amendments, as well as any other amendments the stakeholder believes will be necessary.***