



AESO Rule Consultation Process Stakeholder Comments October 22, 2009 Meeting

Comments From: Capital Power
Date: October 21, 2009
Contact: Janene Taylor
Phone: 403-717-4639
E-mail: jgtaylor@capitalpower.com

1. AESO Principles for Consultation on Rules Development

2. The AESO has an obligation to ensure the safe and reliable operation of the Alberta Interconnected Electric System (AIES) and to promote a fair, efficient and openly competitive (FEOC) market for electricity. In the Rule making process the interests of individuals must be balanced with the interests of the AIES and the public interest as a whole.

Stakeholder Comments:

Capital Power agrees that it is important for the AESO to ensure that rule development is consistent with the AESO's mandate as it is defined in Section 16 and 17 of the Electric Utilities Act (EUA). We support the inclusion of this mandate in the principles governing the rules consultation process. However, Capital Power has a significant concern with the statement that "...the interests of individuals must be balanced with the interests of the AIES and the public interest as a whole."

Capital Power is concerned that this separate delineation of a public interest role may indicate that the AESO believes it has a public interest mandate outside of its specified joint mandates of ensuring the safe and reliable operation of the AIES and promoting a FEOC market. In Capital Power's view, the public interest has been considered and is embedded within the AESO mandate. This is an important distinction, as the AESO mandate does not contain a separate public interest or consumer protection component. Policy makers have determined that a FEOC market and a safe and reliable electric system are in the public interest. Therefore, provided the AESO fulfills its duties and responsibilities under Sections 16 and 17 of the EUA the public interest is a considered.

In contrast, the Alberta Utilities Commission (AUC) Act specifically provides for a public interest role for the AUC. Section 17 (Public Interest) of the AUC Act explicitly states that the AUC has a mandate to protect the public interest in specified circumstances. This is a natural component of the AUC's adjudicative role. The creation of different agencies with different mandates is intentional and results in clear accountabilities for each agency.

4. The stakeholder consultation process, particularly the degree of detail of information provided by the AESO and stakeholders, the time required for review of that information provided, and the amount of discussion shall be commensurate with the importance, complexity, and urgency of the Rule to which it applies.

Stakeholder Comments:

Capital Power agrees that stakeholders should have the opportunity to provide input regarding the importance, complexity, urgency and subsequently the amount of time required for review of an ISO Rule. Capital Power would like the AESO to provide more information on how it proposes to manage those situations where market participants and/or the AESO disagree on the importance or urgency of a particular rule being considered for consultation.

<p>7. The stakeholder consultation process shall ensure that those affected by a proposed Rule or Rule change:</p> <p>i) receive adequate notice of proposed Rule or Rule change;</p> <p>ii) have the opportunity to indicated their intention to participate in the consultation;</p> <p>iii) have the opportunity to provide input into the Terms of Reference; and</p> <p>iv) have the opportunity to participate fully in the consultation process</p>
<p>Stakeholder Comments:</p> <p>i) Is there a specific amount of time that will be considered adequate notice, or will this vary depending on the issue being considered?</p> <p>ii) Will participation be limited to those market participants that have indicated their intent to participate at the outset of the consultation (Step 3) or will market participants have the option to join the consultation at any time?</p> <p>iii) In the event that market participants and/or the AESO disagree on Terms of Reference, how does the AESO propose to manage this situation and ensure that issues that are not included in the Terms of Reference will still be addressed?</p>
<p>11. In order to ensure an effective consultation, each stakeholder commits to raise all concerns or suggestions for improvement, to provide those concerns or suggestions in writing for discussion with others in the consultation process and to share information necessary for others to understand and evaluate those concerns or suggestions for improvement in a full and effective manner.</p>
<p>Stakeholder Comments:</p> <p>Capital Power is of the view that the current process is primarily written and that stakeholder views are very transparent. There may be circumstances where stakeholders are unable or unwilling to provide their concerns in a public forum. If there is an increased obligation for market participants to provide comments in writing it is also appropriate to place an obligation on the AESO to provide explanations and reasons for its decisions and views in writing.</p>
<p>12. In order to ensure a sufficient record of the consultation process, all AESO information, comments from Stakeholders and AESO responses, as well as agendas and action items, shall be in writing and will be posted on the AESO website.</p>
<p>Stakeholder Comments:</p> <p>Capital Power agrees that a complete and sufficient record of the consultation process is necessary. Capital Power would like to ask the AESO if they have some initial thoughts regarding the timing in which such information would be made available. For example, will the AESO commit to providing material such as agendas within a specific timeframe prior to a stakeholder session?</p>
<p>Additional Comments:</p> <p>In Capital Power's view there is a flaw with the current rules consultation that is not addressed by proposed enhancements. Currently, once a rule changes is implemented there is often no mechanism for evaluating the success of that rule change. In many cases the objectives are not clearly stated and performance metrics are not developed within the rule consultation.</p> <p>Capital Power recommends an additional principle be included that requires the AESO to develop performance metrics as part of the consultation process. Performance metrics will assist the AESO and market participants in determining whether the objectives a new rule is intended to achieve are in fact met. It is necessary to continually review the impact of new rules on the performance of the market, and that performance metrics are best developed as part of the consultation process rather than after the fact.</p>
<p>2. Draft AESO Terms of Reference Template</p>

Purpose
<p>Stakeholder Comments:</p> <p>The second statement regarding the conduct of the AESO and stakeholders doesn't appear to belong in the Purpose section of the Terms of Reference. Only statements that describe the purpose of the Terms of Reference should be included in this section. Rather this statement appears to fit better under Section 3, Consulting Parties.</p>
Issues
<p>Stakeholder Comments:</p> <p>This section appears to be redundant of the Need section. Any issues with the current rule or issues that result in the development of a new rule speak to the Need; therefore these two sections could be combined.</p>
Additional Comments:
<p>In addition to the identification of Need it is essential that objectives of a new rule are clearly stated at the outset of the consultation. It is important to consider the principles that govern the market design and the desired outcomes when assessing the potential solutions to identified issues.</p> <p>It would also be beneficial to explicitly state the scope of the rule consultation in the Terms of Reference document. This will ensure that the process is timely and that required resources are available and used efficiently. In some cases it may also be helpful to identify what is not within the scope of a particular consultation.</p> <p>Finally, once the objectives of a consultation process are clearly defined it is necessary to establish measures or metrics for determining if the implemented solution effectively addresses the issues identified. Capital Power recommends that the Terms of Reference template include a measures section that contains information such as, measures, tests or thresholds that can be applied once a solution has been implemented to ensure the objectives have been achieved.</p>
3. ISO Rules Consultation Steps
<p>Stakeholder Comments:</p> <p>The AESO draft rules consultation process divides the consultation steps into two main sections: Solidifying the Policy Position and Rule Development. Capital Power recommends that the AESO consider a third section that includes steps one through step six. This part of the process could be referred to as Information Gathering or Issues Assessment. Until the AESO has reviewed and presented the issues to stakeholders and has the opportunity to review feedback from stakeholders it should refrain from solidifying a position. Capital Power recognizes that the AESO can not initiate a stakeholder consultation without doing any preliminary work, however, it is essential that policy does not become too rigid or solidified before all information is considered.</p> <p>During the information session on October 22nd the AESO indicated it would attempt to seek consensus throughout the consultation process. In the event that consensus can not be reached, such as, on a requirement to explore a need or matter, on the content of the Terms of Reference or on the draft rule language, the AESO should commit to providing an explanation of its decision including reasons for not adopting stakeholder views. A transparent decision making process is an essential part of a well functioning consultation process.</p> <p>Capital Power notes that the consultation steps do not make reference to any timelines. We understand that the AESO needs to maintain enough flexibility to ensure that an appropriate amount of attention is given to the issues; however, there may be places where timelines would increase efficiency. Specifically, the AESO may be able to specify a standard timeframe for the following steps:</p> <ul style="list-style-type: none"> • Once the AESO has issued Invitation to Stakeholders to Consult (step two) Capital Power recommends that the AESO hold an Initial Stakeholder Session (step four) within a set time period. • Capital Power recommends that the AESO determine a minimum and maximum amount of time to be

given for stakeholder comments. Depending on the urgency and complexity of the issue the AESO can specify the amount of time market participants will have to respond to comments within the limits previously determined.

- Once comments are received by the AESO from stakeholders, can the AESO commit to posting them to its website within a set time period? Is it possible for the AESO to commit to responding to stakeholder comments within a specific timeframe?

Finally, how does the AESO propose to handle significant delays in the consultation process? It is Capital Powers view that once a significant amount of time has passed it may be necessary to re-start the consultation process.

Step 1: Requirement to Explore a Need or Matter

Stakeholder Comments:

In the event that someone other than the AESO identifies a requirement to explore a need or a matter how does the AESO propose to make a determination regarding the validity of the claim?

Capital Power recommends that in the event the AESO disagrees with a market participant's assertion that there is a need to explore a need or a matter that the AESO commit to providing a justification or explanation of its decision, including reasons for not adopting stakeholder views. Likewise, should the AESO decide there is a requirement to explore a matter on which stakeholders do not agree there is a need, the AESO should advise market participants in writing of its reasons for proceeding. A transparent decision making process is an essential part of a well functioning consultation process.

Step 4: Initial Stakeholder Meeting (if required)

Stakeholder Comments:

In the event the AESO determines that an initial meeting is not required how will market participants provide input into the Terms of Reference? If the AESO chooses not to hold an initial meeting Capital Power recommends that the AESO include the comment matrix (discussed in step five) with the briefing materials that are posted on the AESO website in step two.

Will the AESO be developing criteria to be used to determine if certain steps can be omitted from the consultation process? Can steps be added back in once they are omitted?

Step 6: AESO determines if further consultation is required.

Stakeholder Comments:

Capital Power would like to recommend that in the event consensus regarding the need for further consultation cannot be achieved that the AESO commit to providing a justification or explanation of its decision including reasons for not adopting stakeholder views.

Step 13: AESO requests position letters from stakeholders

Capital Power is uncertain how position letters differ from the comments that the AESO currently receives from stakeholders in response to discussion papers, recommendation papers, draft rule language etc. Capital Power does not see the incentive for market participants to provide position letters. It may be the case that stakeholders are unable to fully assess the impact of a new rule or a rule change on their operations until the rule has been implemented. Finally, parties should not be expected to disclose their intentions with respect to litigation, as AESO decisions should be based on sound principles and preferred outcomes regardless of parties' subsequent actions.

Step 14: AESO reviews all Stakeholder comments and finalizes Draft ISO Rule Change

Stakeholder Comments:

In the event consensus on the draft rule can not be achieved the AESO should commit to providing a justification or explanation of its decision including reasons for not adopting stakeholder views.