

November 3, 2021

To: The Market Surveillance Administrator, market participants and other interested parties
("Stakeholders")

Re: **Stakeholder Comments on Letter of Notice – Draft Proposed Amended Section 103.5 of the ISO Rules, *Net Settlement Instruction* ("Section 103.5")**

Pursuant to Alberta Utilities Commission Rule 017, *Procedures and Process for Development of ISO Rules and Filing of ISO Rules with the Alberta Utilities Commission*, written comments received from the Stakeholders in response to the Alberta Electric System Operator's ("AESO") October 12, 2021 *Letter of Notice Draft Proposed Amended Section 103.5* have been posted on the AESO website. Comments were received from the following Stakeholders:

- Capital Power Corporation; and
- TransAlta Corporation

The written Stakeholder comments can be found on the Stakeholder engagement page on the AESO website at www.aeso.ca. Follow the path Stakeholder Engagement > Rules, standards and tariff consultations > Proposed Amended Section 103.5 of the ISO Rules, *Net Settlement Instruction*

Thank you to all Stakeholders who participated in this ISO rules comment process. All written comments received will be considered in the AESO's finalization of the proposed amended Section 103.5 and responses to those comments will be posted on the AESO website.

If you have any questions, please submit them to rules_comments@aeso.ca

Sincerely,

Jodi Marshall

Legal Manager, ISO Rules and Alberta Reliability Standards
Legal and Regulatory Affairs
rules_comments@aeso.ca

<p>Period of Comment: October 12, 2021 through November 2, 2021</p> <p>Comments From: Capital Power</p> <p>Date [yyyy/mm/dd]: November 2, 2021</p>	<p>Contact: Megan Gill</p> <p>Phone: 403.827.3566</p> <p>Email: mgill@capitalpower.com</p>
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Instructions:

1. Please fill out the section above as indicated.
2. Please refer back to the “related material” on the Stakeholder Engagement page on the AESO website.
3. Please respond to the questions below and provide your specific comments, if any. Blank boxes will be interpreted as favourable comments.

The AESO is seeking comments from Stakeholders on the proposed development of amendments to Section 103.5 with regard to the following matters:

	AESO Questions to Stakeholders	Stakeholder comments
1	<p>Do you understand and agree with the objective or purpose of the proposed amended Section 103.5 and whether, in your view, the proposed amended Section 103.5 meets the objective or purpose? If not, why.</p>	<p>Capital Power understands that the AESO’s stated objectives for the proposed amendments to Section 103.5 are to improve stability with respect to the energy market and to reduce the risk of defaults by pool participants. Capital Power believes that those objectives are commendable and that the proposed amendments to Section 103.5, except for subsection 4(2), are generally consistent with those objectives.</p> <p>Concerning subsection 4(2), Capital Power respectfully submits that the proposed amendments would be counterproductive to the intended objectives and might actually harm market stability. More detailed comments are provided in reply to Questions 3 and 4 below.</p> <p>In summary, Capital Power believes that the proposed amendments to subsection 4(2) are unnecessary given the existing powers, recourses, and remedies available to the AESO under Sections 103.3 and 103.7 of the ISO Rules. In addition, Capital Power believes that one of the (presumably unintended) consequences of the proposed amendments to subsection 4(2) is that the AESO would be granting itself the power to unilaterally alter, or interfere with, contractual terms that have been agreed by pool participants. Capital Power does not believe that it is in the public interest for the AESO to have such power and that such power is beyond the AESO’s statutory mandate.</p> <p>Capital Power respectfully urges the AESO to not adopt the proposed amendments to subsection 4(2) and instead to leave that subsection as it currently reads in Section 103.5. Our further comments below are limited to the proposed amendments to subsection 4(2).</p>

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2	Do you agree that the proposed amended Section 103.5 is not technically deficient? If not, why.	Yes, Capital Power agrees that the proposed amended Section 103.5 is not technically deficient.
3	Do you agree with the proposed amended Section 103.5, taken together with all ISO rules, supports a fair, efficient and openly competitive market? If not, why?	<p>No, Capital Power believes that the proposed amendment to subsection 4(2) would have a negative effect on the fairness, efficiency, and competitiveness of the energy market in Alberta. Specifically, the discretion that the proposed amendment would give the AESO to refuse to de-register any NSI, following a request by a pool participant to do so, unless certain conditions described in the amendment are met, constitutes an inference by the AESO with contractual terms that pool participants may have agreed to in the contracts between them that govern NSI transactions. Such contracts typically enumerate events of default and corresponding rights and remedies available to the non-defaulting party. The most significant right/remedy is typically that the non-defaulting party may terminate the transaction and de-register the NSI. The proposed amendment to subsection 4(2) interferes with and potentially eviscerates that right/remedy.</p> <p>Capital Power respectfully submits that it is inappropriate for, and beyond the statutory mandate of, the AESO to unilaterally re-write contractual terms agreed to by pool participants, based on the AESO's discretion. Furthermore, lack of clarity around when or how the AESO would exercise that discretion will create uncertainty among pool participants and likely discourage pool participants from entering NSI transactions. Capital Power believes that the proposed amendment to subsection 4(2) would have an overall deleterious or chilling effect on the attractiveness of NSI transactions to pool participants, which in turn would be contrary to the objectives of fairness, efficiency, and open competitiveness in the energy markets generally.</p> <p>Referring specifically to the proposed amendment to subsection 4(2)(b), pursuant to which the AESO might refuse to de-register an NSI until the AESO receives financial security from the pool participants. Capital Power respectfully submits that the AESO already has sufficient power and recourse to require pool participants to provide financial security pursuant to Sections 103.3 and 103.7 of the ISO Rules. That power and recourse culminate in the AESO's ability to suspend or terminate a pool participant's participation in the Alberta wholesale energy markets. Accordingly, Capital Power believes that proposed subsection 4(2)(b) is largely duplicative of powers that the AESO already has, and the amendment is therefore not needed.</p> <p>Referring specifically to the proposed amendment to subsection 4(2)(c), pursuant to which the AESO might refuse to de-register an NSI until the AESO is satisfied that de-registration will not have any "adverse effects", if the AESO insists on proceeding with the amendment (which Capital Power opposes), Capital Power respectfully submits that the</p>

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		<p>AESO should also articulate transparent and objective criteria regarding how the AESO would determine the presence or absence of “adverse effects”. Those criteria should be clearly stated in Section 103.5, or a related information document, to ensure the amendments meet the AESO’s stated goals around energy market stability, reducing default risk, as well as ISO Rule certainty for pool participants. Pool participants need to be certain that if certain objective and transparent requirements are met, the AESO will not reject an NSI de-registration request. The current proposed amendments to subsections 4(2)(b) and 4(2)(c) are neither objective nor transparent and that lack of clarity, if the current proposed amendments are adopted, would be detrimental to a fair, efficient and openly competitive market.</p>
4	<p>Do you agree that the proposed amended Section 103.5 supports the public interest? If not, why?</p>	<p>No, please see our comments to Questions 1 and 3 above. Capital Power does not believe it in the public interest (nor within its statutory mandate) for the AESO to assume for itself the discretion to unilaterally interfere with contractual terms agreed between pool participants. Furthermore, lack of objective and transparent criteria concerning how the AESO might exercise that discretion is also not in the public interest.</p>
5	<p>If approved, the AESO will propose that the amended Section 103.5 have an immediate effective date. Do you agree? If not, why not?</p>	<p>Yes, Capital Power agrees with an immediate effective date.</p>
6	<p>Any additional comments regarding the proposed amended Section 103.5.</p>	<p>Consistent with the reasons stated in response to Question 3 and 4 above, Capital Power submits that the proposed amendments introduce unnecessary red tape for market participants. Capital Power understands that the AESO is committed to removing burdensome regulatory requirements, as well as streamlining processes, in alignment with the <i>Red Tape Reduction Act</i>. The proposed amendments, particularly the proposed addition of 4(2)(b), result in additional red tape and inefficiencies that would interfere with competitiveness and innovation in the market.</p>
7	<p>Please provide any comments or views on the need for the development of a related information document, including the type of content that should be included.</p>	<p>Please see response to Question 3 above.</p>

<p>Period of Comment: October 12, 2021 through November 2, 2021</p> <p>Comments From: TransAlta Corporation</p> <p>Date [yyyy/mm/dd]: 2021/11/02</p>	<p>Contact: Luis Pando</p> <p>Phone: 403-267-3627</p> <p>Email: Luis_Pando@transalta.com</p>
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1. Please fill out the section above as indicated.
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3. Please respond to the questions below and provide your specific comments, if any. Blank boxes will be interpreted as favourable comments.

The AESO is seeking comments from Stakeholders on the proposed development of amendments to Section 103.5 with regard to the following matters:

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1	Do you understand and agree with the objective or purpose of the proposed amended Section 103.5 and whether, in your view, the proposed amended Section 103.5 meets the objective or purpose? If not, why.	<p><i>The proposed objective to introduce requirements for the delivery of financial security should fully address the risk of default</i></p> <p>TransAlta understands the objective of introducing the requirement for pool participant counterparties to provide any additional or replacement financial security that might be required in the event that a request to deregister a net settlement instruction is submitted to the AESO. The AESO also proposed stylistic edits to several of the subsections, which do not appear to change any of the requirements currently captured in the rule.</p>
2	Do you agree that the proposed amended Section 103.5 is not technically deficient? If not, why.	<p><i>Paragraph 2(c) is technically deficient, unnecessary and should be removed</i></p> <p>Paragraph 2(c) adds a new (and unnecessary) requirement to net settlement instruction de-registration requests that the ISO must be satisfied that the de-registration will not have any adverse effect. This additional requirement is not contained within the current rule and does not provide any details about what pool participant counterparties are required to do or provide to the satisfy the ISO that de-registration will have any adverse effect.</p> <p>Net settlement instructions allow for efficient settlement of a bilateral arrangement between counterparties. When parties file for a de-registration, the bilateral arrangement between the counterparties has ended/or is expected to end. Paragraph 2(c) creates a risk that the AESO could force counterparties to continue to be settled under a net settlement instruction</p>

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		<p>even when the counterparties no longer have a bilateral commercial arrangement.</p> <p>Beyond providing the necessary financial security as contemplated in paragraph 2(b), there is no reason to place this additional requirement in the rule. Given that the requirement in paragraph 2(c) is too broad, poorly defined, technically deficient, and creates unnecessary uncertainty about transactions between counterparties, TransAlta views the requirement to be technically deficient and recommends that it be removed.</p>
3	<p>Do you agree with the proposed amended Section 103.5, taken together with all ISO rules, supports a fair, efficient and openly competitive market? If not, why?</p>	<p>Paragraph 2(c) could undermine fair, efficient and openly competitive bilateral arrangements</p> <p>The bilateral arrangement between two counterparties that underpin a net settlement instruction are not within the purview of the AESO. These arrangements support an efficient market where customers can choose how their load requirements are met by entering into transactions with suppliers. The requirements contemplated in Paragraph 2(c) are too ill-defined as drafted to understand and provides the AESO too much discretion to hold up or otherwise intercede in market transactions between commercial counterparties that support a fair, efficient and openly competitive market.</p>
4	<p>Do you agree that the proposed amended Section 103.5 supports the public interest? If not, why?</p>	<p>Paragraph 2(b) fully address the proposed objective; Paragraph 2(c) is not in the public interest</p> <p>TransAlta agrees that paragraph 2(b) is in the public interest, and that any concerns about the AESO's exposure and risk to default are fully addressed with the requirement to provide financial security in paragraph 2(b).</p> <p>As stated in our comments to question 2 and 3, TransAlta disagrees that paragraph 2(c) is in the public interest because it is technically deficient and does not support fair, efficient and openly competitive market transactions between pool participants.</p>
5	<p>If approved, the AESO will propose that the amended Section 103.5 have an immediate effective date. Do you agree? If not, why not?</p>	<p>The effective date should be based upon when a process to meet paragraph 2(b) is fully implemented</p> <p>TransAlta does not support an immediate effective date. TransAlta asks the AESO to transition to adoption of paragraph 2(b) once the AESO has explained the process and timelines for meeting this requirement to stakeholders. The effective date should be based upon when that process is implemented.</p>

	AESO Questions to Stakeholders	Stakeholder comments
6	Any additional comments regarding the proposed amended Section 103.5.	No additional comments at this time.
7	Please provide any comments or views on the need for the development of a related information document, including the type of content that should be included.	An information document is needed to outline the process and timelines for meeting the new requirements proposed in the rule. TransAlta also recommends that the information document be consulted on with stakeholders (before the amended rule is made effective).