

## Stakeholder Comment Matrix – March 28, 2019



### Draft Proposed New ISO rule “Waivers and Variance Rule”

**Period of Comment:** March 28, 2019 through April 12, 2019  
**Comments From:** TransAlta  
**Date [yyyy/mm/dd]:** 2019/04/18

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**Further to the next steps identified at the Stakeholder Session held on February 4, 2019, the ISO is requesting feedback on the items below. Please place your comments/reasons for position underneath (if any).**

Item #		Stakeholder comments
1	<b>Applicability</b> Whether you agree that a <i>Waiver and Variance Rule</i> should be applicable to electricity market participants and the ISO, and why or why not.	TransAlta submits that a Waiver and Variance Rule should be applicable to both electricity market participants who may request a waiver or variance and to the ISO who may approve a waiver and variance.
2	<b>Scope</b> Whether you agree that a request for a waiver or variance should be available for the Division 502 – Technical Requirements, Section 304.3, <i>Wind and Solar Power Ramp Up Management</i> and Section 304.9, <i>Wind and Solar Aggregated Generating Facility Forecasting</i> , and why or why not.	TransAlta agrees with the proposed scope.

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3	<p><b>Grounds for requesting a waiver or variance</b></p> <p>Whether you agree that the grounds for requesting a waiver or variance should include one or more of the following circumstances where compliance with the requirements of the subject ISO rule:</p> <ul style="list-style-type: none"> <li>(a) is not technically possible or is precluded by technical limitations;</li> <li>(b) is operationally infeasible;</li> <li>(c) cannot be achieved by the required compliance date regardless of good faith efforts by the market participant;</li> <li>(d) would pose safety risks or safety issues;</li> <li>(e) would conflict with a separate statutory or regulatory requirement that is applicable and cannot be waived or exempted; and</li> <li>(f) would require the incurrence of significant unnecessary costs or severe economic hardship.</li> </ul> <p>Which grounds and why or why not?</p>	<p>TransAlta agrees with the proposed grounds for requesting a waiver. We request the AESO consider the following.</p> <p>Regarding (f), a market participant may submit they would incur significant unnecessary costs due to the AESO implementing much stricter requirements despite, for example, reliability historically being maintained under existing requirements. Given this, we suggest (f) be revised to include the following:</p> <ul style="list-style-type: none"> <li>(f) would require the incurrence of significant unnecessary costs or severe economic hardship, which in the view of the requestor may outweigh their perceived benefits of new or amended requirements.</li> </ul>

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4	<p><b>Criteria for evaluating a request</b></p> <p>Whether you agree that the criteria the AESO should use to evaluate requests for a waiver or variance should include one or more of the following:</p> <ul style="list-style-type: none"> <li>(a) technical feasibility;</li> <li>(b) operational feasibility and burden;</li> <li>(c) safety;</li> <li>(d) economics (including significant unnecessary costs to the applicant, or unfair costs to other market participants);</li> <li>(e) material impacts on a fair, efficient, openly competitive market;</li> <li>(f) whether appropriate mitigation measures, mitigation plans, or remediation plans can be or are put in place;</li> <li>(g) reliability of the Alberta interconnected electric system; and</li> <li>(h) public interest.</li> </ul> <p>Which criteria and why or why not?</p>	<p>TransAlta agrees that such criteria should be used. The AESO could use language like that which is included in section 5 of the existing AESO Technical Feasibility Exception (TFE) Request Form. Below we described the type of information which we feel should be included in an associated Information Document.</p>

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5	<p><b>Submission of information</b></p> <p>Whether you agree that the applicant must:</p> <ul style="list-style-type: none"> <li>(a) make a request for a waiver or variance to the AESO in writing;</li> <li>(b) use the form the AESO specifies (which will require the submission of all relevant information – e.g. facility details, the relevant ISO rules and requirements, the grounds for the request and information that will allow the AESO to effectively assess the request based on the criteria for granting a request); and</li> <li>(c) respond to requests from the AESO for additional information, studies or analysis;</li> </ul> <p>and why or why not.</p>	<p>TransAlta does not have a preference regarding (a) and (b).</p> <p>Regarding (c), we agree applicants should respond to requests from the AESO to ensure the AESO has all the information it requires to decide. Given the AESO will be considering trade-offs regarding the criteria included in Item #4, the Waiver and Variance Rule should also include language specifying that the AESO or applicant may request a meeting to discuss how the AESO considers such criteria when determining whether to grant a waiver.</p>
6	<p><b>Evaluation process</b></p> <p>Whether you agree that the process for waivers and variances should be:</p> <ul style="list-style-type: none"> <li>(a) submission of a written request;</li> <li>(b) acknowledgement of receipt;</li> <li>(c) information requests, as necessary, and applicant responses;</li> <li>(d) updates on progress;</li> <li>(e) written decision; and</li> <li>(f) if denied, reasons/rationale;</li> </ul> <p>and why or why not.</p>	<p>TransAlta agrees with that process. Further to the comment to item #5 above, the Waiver and Variance Rule should also include language specifying that the AESO or applicant may request a meeting to discuss how the AESO considers such criteria when determining whether to grant a waiver. We request the AESO also include the following requirements within the Waiver or Variance Rule.</p> <p>Regarding (b), AESO acknowledgement of receipt should provide the applicant with the AESO's expected timeline for provision of a written decision. If such a timeline is longer than normally reasonable, for example longer than 6 months after initial submission of a written request, then the acknowledgement of receipt should explain the cause of the delay and state their opinion that the applicant should not be deemed non-compliant with requirements contained in the requested waiver or variance until a decision has been made regarding the request. Such correspondence should be copied to the Market Surveillance Administrator as information. Absent this, it would be difficult for the applicant to accept accountability for compliance of such requirements and it would not be possible for the applicant to take action to prevent and mitigate incidents of non-compliance.</p>

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7	<p><b>Content of a waiver or variance</b></p> <p>Whether you agree that the content of an approved waiver or variance must include an effective date and any of the following as applicable:</p> <ul style="list-style-type: none"> <li>(a) conditions;</li> <li>(b) expiry date;</li> <li>(c) milestones for mitigation or remediation plans; and</li> <li>(d) reporting requirements;</li> </ul> <p>and why or why not.</p>	<p>TransAlta agrees an approved waiver or variance must include an effective date, but does not agree that items (a), (b), (c) and (d) should be included. The AESO should have an ability to include any of the listed items should they be deemed necessary on a case by case basis.</p>
8	<p><b>Ongoing Management</b></p> <p>Whether you agree that the following should apply to the ongoing management of granted waivers and variances:</p> <ul style="list-style-type: none"> <li>(a) the applicant must notify the AESO of a material change to the facts or circumstances underlying the approval of the waiver or variance;</li> <li>(b) the AESO may amend or revoke a waiver or variance with at least 30 days' notice if there is a material change to the facts or circumstances underlying the approval of the variance; and</li> <li>(c) waivers and variances may be transferred to a new legal owner;</li> </ul> <p>and why or why not.</p>	<p>TransAlta agrees that (a) should apply to ensure the basis for the original approval continues to apply.</p> <p>TransAlta does not feel (b), as written, should apply. The Waiver and Variance Rule should include the specific criteria the AESO would use to determine whether there is a material change, so that applicants have clarity and certainty regarding the types of changes which could lead to amendment or revocation of an approval. The rule should include language specifying that the AESO or applicant may request a meeting to discuss how the AESO determines there is a material change and there should be a process for the applicant to dispute such a decision. Lastly, 30 days may be too little time for an applicant to get into compliance following amendment or revocation of a waiver or variance. The rule should specify that a timeline to comply must be determined and agreed upon by the AESO and the applicant.</p> <p>We agree (c) should apply since the characteristics of an asset do not change as a result of a change in ownership.</p>

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9	<p><b>Confidentiality of requests and decisions</b></p> <p>Whether you agree that requests for a waiver or variance, and any resulting decision should remain confidential, subject to Section 103.1 of the ISO rules, <i>Confidentiality</i>, and why or why not.</p>	<p>All aspects of an application for a waiver or variance should remain confidential, to protect commercially sensitive information and to avoid sharing of information which could jeopardize reliability or security of the grid. We see no benefit from making the information in a waiver and variance public and note that the AESO holds other documents such as functional specifications confidential.</p>
10	<p><b><i>Treatment of waivers and variances language in current ISO rules</i></b></p> <p>Which of the following 3 options you support, if any, for dealing with the waivers and variances language in current ISO rules, why or why not, or suggestions for alternative options.</p> <p><i>Issue:</i></p> <p>Various waivers and variances language is currently found in the majority of Division 502 ISO rules, including:</p> <p><b>“2(2) The functional specification referred to in subsection 2(1) must be generally consistent with the provisions of this section 502.X, but may contain material variances approved of by the ISO based upon its discrete analysis of any one or more of the technical, economic, safety, operational and reliability requirements of the interconnected electric system related to the specific facility project.”</b></p> <p><i>Options:</i></p> <p>The AESO is of the opinion that there are 3 main options for dealing with this language.</p> <ol style="list-style-type: none"> <li>1. Leave the current language in the ISO rules. As long as there is no conflict, duplication is not problematic.</li> <li>2. Amend the ISO rules over time. As long as there is no conflict, duplication is not problematic. However, for the sake of clarity and consistency, when the subject ISO rules are open under other future</li> </ol>	<p>TransAlta submits that existing waivers and variances should not be affected by the new Waiver and Variance rule. It follows that the new Waiver and Variance Rule must include language explicitly stating that existing waivers or variances will continue to apply. In terms of options for dealing with existing language in ISO Rules, TransAlta supports option 1 since there would not be a conflict, the duplication would not be problematic, it would avoid needless ISO Rule amendments, and could be implemented in a timely manner.</p>

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	<p>development initiatives, the AESO would propose the removal of the duplicate provisions.</p> <p>3. Amend in conjunction with the proposed new ISO rule and propose the deletion of the duplicate provisions. While duplication is not problematic, for the sake of clarity and consistency, the AESO would propose to delete the waivers and variances language in the Division 502 ISO rules at the same time as making the application for approval of the proposed Waivers and Variances Rule.</p>	
11	<p><b>Other</b></p> <p>Please provide any other feedback or suggestions you have on the proposed Waiver and Variance Rule.</p>	<p>Would the AESO clarify how they will deal with a scenario where, at the stakeholder consultation stage of AESO rule development, an electricity market participant identifies a concern that a new ISO Rule requirement would result in significant cost to incumbent generators? TransAlta proposes the AESO should work with potentially affected parties to understand the concerns and then to clarify whether a waiver or variance would be approved. Doing so should normally avoid the impacted parties from filing Statements of Intent to Participate in AUC proceedings regarding such an impactful rule.</p> <p>Also, there should be a defined process for appeal of a rejection of an exception request, similar to that of NERC Definition of Bulk Electric System Appendix 5C, Section 7 (<a href="https://www.nerc.com/FilingsOrders/us/RuleOfProcedureDL/Appendix_5C_ProcForReqAndRecExFromAppOfNERCDefBES_20140701.pdf">https://www.nerc.com/FilingsOrders/us/RuleOfProcedureDL/Appendix_5C_ProcForReqAndRecExFromAppOfNERCDefBES_20140701.pdf</a>).</p>

***Information Document*** - The AESO intends to develop an information document to accompany the proposed Waiver and Variance Rule. At a minimum, the AESO suggests that such an information document would contain a template submission form, contact information, and examples of the eligible grounds and criteria. Please provide your views on the type of content that should be included in an information document associated with the proposed Waiver and Variance Rule.

Regarding Item #4, Criteria for evaluating a request, the AESO should demonstrate the process by which they select the most economically efficient rule requirements, having consideration for expenditures required to achieve a reliability goal and whether both generation and transmission alternatives have been considered. To that end, the AESO should provide examples of new or amended requirements which would be either “*must have’s*”, to be met to avoid having a detrimental effect on the system, despite a high cost to electricity market participants or “*nice to have’s*” which improve reliability but probably should not proceed if they would cause significant unnecessary costs or severe economic hardship. Such information would help electricity market participants understand how the AESO considers trade-offs with respect to operational feasibility and burden, safety, economics (including significant unnecessary costs to the applicant, or unfair costs to other market participants), material impacts on a fair, efficient, openly competitive market, whether appropriate mitigation measures, mitigation plans, or remediation plans can be or are put in place, reliability of the Alberta interconnected electric system and public interest. The information would also help the AESO reassure electricity market participants they are making prudent, cost effective decisions.