

Stakeholder Comment Matrix – March 28, 2019



Draft Proposed New ISO rule “Waivers and Variance Rule”

<p>Period of Comment: March 28, 2019 through April 12, 2019</p> <p>Comments From: Market Surveillance Administrator</p> <p>Date [yyyy/mm/dd]: 2019/04/11</p>	<p>Contact: Anders Renborg</p> <p>Phone: 403-233-4682</p> <p>Email: Anders.Renborg@albertamsa.ca</p>
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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	<p>Applicability</p> <p>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.</p>	<p>The MSA agrees the Waiver and Variance Rule should be applicable to electricity market participants and the ISO.</p> <p>The rule needs to clearly state somewhere that a market participant may request a variance or waiver, rather than allowing everyone including the ISO to make a request for a variance or waiver with respect to Division 502, and sections 304.3 and 304.9.</p>
2	<p>Scope</p> <p>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.</p>	<p>The MSA agrees that a waiver or variance may be warranted in certain circumstances pertaining to technical requirements. However, the MSA wants to ensure that there are safeguards in place, so that the ISO rules cannot be circumvented for an improper purpose. If several variances/waivers pertaining to the same concern are in place for long durations, the MSA is of the view that the AESO must amend the relevant ISO rules as opposed to issuing more variances/waivers.</p>

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3	<p>Grounds for requesting a waiver or variance</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"> (a) is not technically possible or is precluded by technical limitations; (b) is operationally infeasible; (c) cannot be achieved by the required compliance date regardless of good faith efforts by the market participant; (d) would pose safety risks or safety issues; (e) would conflict with a separate statutory or regulatory requirement that is applicable and cannot be waived or exempted; and (f) would require the incurrence of significant unnecessary costs or severe economic hardship. <p>Which grounds and why or why not?</p>	<p>The MSA agrees with the grounds (a), (b), (d), (e), and (f). However, the MSA requires more information on how (c) will be evaluated. What type of information will the market participant be required to submit to the AESO to demonstrate (c)? For example, in the view of the MSA oversight by a market participant to plan appropriately shall not be a reason for the AESO to approve a waiver or variance request.</p>

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4	<p>Criteria for evaluating a request</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"> (a) technical feasibility; (b) operational feasibility and burden; (c) safety; (d) economics (including significant unnecessary costs to the applicant, or unfair costs to other market participants); (e) material impacts on a fair, efficient, openly competitive market; (f) whether appropriate mitigation measures, mitigation plans, or remediation plans can be or are put in place; (g) reliability of the Alberta interconnected electric system; and (h) public interest. <p>Which criteria and why or why not?</p>	<p>The MSA agrees with the criteria (a) through (h).</p> <p>The MSA proposes that the MSA must be consulted when the AESO makes its determination on (e).</p>

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5	<p>Submission of information</p> <p>Whether you agree that the applicant must:</p> <ul style="list-style-type: none"> (a) make a request for a waiver or variance to the AESO in writing; (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 (c) respond to requests from the AESO for additional information, studies or analysis; <p>and why or why not.</p>	<p>The MSA agrees with Item 5. Requests must be made in writing and provide relevant information. The AESO must have the ability to ask for and receive additional information in order to render its decision.</p>
6	<p>Evaluation process</p> <p>Whether you agree that the process for waivers and variances should be:</p> <ul style="list-style-type: none"> (a) submission of a written request; (b) acknowledgement of receipt; (c) information requests, as necessary, and applicant responses; (d) updates on progress; (e) written decision; and (f) if denied, reasons/rationale; <p>and why or why not.</p>	<p>The MSA agrees with the evaluation process.</p> <p>The MSA would like to be aware of variances/waivers that are being requested, granted and denied as this may impact compliance monitoring and decisions.</p> <p>Specifically the MSA requests the following:</p> <ul style="list-style-type: none"> (a) MSA is copied at the time of submission on all written requests including any reasons advanced by the applicant (e) MSA is copied on written decisions with reasons (f) MSA is copied on denied requests with reasons <p>MSA requests one month to review a written request prior to the AESO issuing a decision.</p>

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7	<p>Content of a waiver or variance</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"> (a) conditions; (b) expiry date; (c) milestones for mitigation or remediation plans; and (d) reporting requirements; <p>and why or why not.</p>	<p>The MSA agrees with the contents (a) through (d).</p> <p>Has the AESO contemplated whether the effective date will be retroactive? The MSA's preference is that the effective date not be retroactive.</p>
8	<p>Ongoing Management</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"> (a) the applicant must notify the AESO of a material change to the facts or circumstances underlying the approval of the waiver or variance; (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 (c) waivers and variances may be transferred to a new legal owner; <p>and why or why not.</p>	<p>The MSA agrees with (a) and (b). However, under (c) the new legal owner should be required to reconfirm that the facts and circumstances still hold, and therefore, that the variance/waiver still applies.</p>

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9	<p>Confidentiality of requests and decisions</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>The MSA is in favour of transparency. Market participants shall be made aware of what requests have been made, which ones have been granted and denied, and the AESO's rationale. This will help the industry to know what to spend time on, submit complaints if they think a variance/waiver distorts the market, and flag areas for rule amendments. If the AESO can justify why confidentiality is warranted, then alternative public reporting should be considered, such that the content of variances/waivers is public, but company names and other identifiers are redacted.</p> <p>If the AESO feels that confidentiality is warranted, please communicate the rationale in your response to these comments.</p>
10	<p><i>Treatment of waivers and variances language in current ISO rules</i></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>“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.”</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"> 1. Leave the current language in the ISO rules. As long as there is no conflict, duplication is not problematic. 	<p>The MSA supports option 3. The MSA is of the view that the scope of this proposed Waiver and Variance Rule be narrow. That is, variance and waiver requests should only be an available option for a few highly technical ISO rules sections not all ISO rules. All rules for which the AESO may grant an exception should be enumerated.</p>

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	<ol style="list-style-type: none"> 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 development initiatives, the AESO should propose the removal of the duplicate provisions. 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. 	
11	<p>Other</p> <p>Please provide any other feedback or suggestions you have on the proposed Waiver and Variance Rule.</p>	<p>The MSA is in favour of transparency and clarity.</p> <p>The MSA is in favour of having fewer variances/waivers in existence. If several variance/waiver requests are submitted/in effect, the MSA believes that a rule revision should be pursued. (See also Item 2.)</p> <p>The MSA also opposes the AESO having the ability to give variances/waivers to itself.</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.

The MSA opposes examples being included in an information document. All information that speaks to whether a market participant should apply for a variance/waiver must be in the ISO rules.