

**Stakeholder Comment Matrix – October 8, 2019**  
**Request for input on market power mitigation**



<b>Period of Comment:</b> October 8, 2019 through October 29, 2019	<b>Contact:</b> [REDACTED]
<b>Comments From:</b> TransCanada Energy Ltd. (TCE)	<b>Phone:</b> [REDACTED]
<b>Date:</b> 2019/10/29	<b>Email:</b> [REDACTED]

*The AESO is seeking comments from stakeholders on market power and market power mitigation in Alberta's energy and ancillary services markets.*

	Questions	Stakeholder Comments
1.	<p>What has been effective in Alberta’s historical approach to market power mitigation in the energy-only market, and what could be improved?</p>	<p><i>Alberta’s market design along with its associated legislation, regulations (e.g., the FEOC Regulation and the 30% offer control limit), and market rules (e.g., must-offer, must-comply) have established a well-functioning energy-only market with a level playing field, characterized by robust competition. It is this competition, and the discipline that it provides, that has been the primary driver to mitigate the potential for the undue exercise of market power.</i></p> <p><i>In conjunction with these components, ex-post monitoring on behalf of the Market Surveillance Administrator (“MSA”) has been effective to ensure that the legislation and market rules, which foster competition, are adhered to.</i></p> <p><i>Energy prices have oscillated up and down consistent with market fundamentals and a competitive market. As a result, Alberta has benefited from a healthy level of investment in new capacity and energy emergency events have been a rare occurrence as generators have responded to real-time price signals to deliver reliable supply at a reasonable price.</i></p> <p><i>It is important that there is a clear understanding among participants of the legislation and rules. The Offer Behaviour Enforcement Guidelines once provided guidance to participants that legislation permitted unilateral offer behaviour. While this guidance has been removed, the legislation has not changed. To ensure clarity, the legislation should be amended to state that unilateral offer behaviour is permitted.</i></p>

<p>2.</p>	<p>Do you expect the historical approach to market power mitigation in the energy-only market (e.g. OBEG, ex-post monitoring, must offer, 30% offer control limit, FEOC Regulation) will be effective on a go-forward basis?</p> <p>If yes, please explain your rationale. If no, please explain your rationale and changes required.</p>	<p><i>Yes. As stated above, the historical approach to market power mitigation has been effective at establishing a competitive and stable market for electricity in Alberta. TCE expects that the historical approach to mitigation will continue to foster a competitive market on a go-forward basis.</i></p> <p><i>In the late 1990s, Alberta restructured its electricity industry from a vertically integrated and regulated model to one with a deregulated wholesale electricity market. The Power Purchase Arrangements (“PPAs”) were implemented as a mechanism to introduce competition into the supply of thermal electric power from regulated generating units and to allow for new generators to enter the market and for the industry to become competitive over the 20-year term of the PPAs. In effect, Alberta chose a pro-market approach to achieve competitive prices by amending the market structure to reduce the concentration ratio among regulated generators and foster competition rather than interfering in the market by establishing market rules to directly administer price. TCE submits that this approach, and the PPAs in general, proved to be an effective means to increase competition.</i></p> <p><i>The Alberta Department of Energy (the “Department”) consulted with stakeholders throughout 2007 and 2008 on market power and market conduct issues in response to the elimination of volumetric holding restrictions.<sup>1</sup> Various market mitigation models were considered. The one receiving the majority of support by stakeholders consisted of two parts, the first being a market share offer control test and the second part being an hourly residual offer control test. The first part required any generator with more than 25% offer control to relinquish offer control or have a mitigation plan approved by the MSA or the Alberta Utilities Commission (“AUC”). The second part would have been an hourly test, known as the red-light, green-light test, where participant offers would have been subject to increased MSA scrutiny under certain market conditions.<sup>2</sup></i></p> <p><i>After further consultation, the Department abandoned the two-part test previously considered in favour of an absolute limit on offer control because “a practical and relatively simple approach to [market share offer control] is desirable”.<sup>3</sup> The Department also recognized the ex-post monitoring of the MSA stating “a limit on offer control is one part of the market power mitigation framework.”<sup>4</sup> At that time, the Department requested stakeholder comments on whether the absolute limit on offer control should be set at 20% or 25%.<sup>5</sup></i></p> <p><i>The result of the Department’s thorough consultation was the establishment of an absolute offer control limit set at 30% enshrined in legislation, which was determined to be consistent with a fair, efficient and openly competitive market. The question asked in 2007 and 2008 was whether further market power mitigation was required</i></p>
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*in response to the elimination of volumetric holding restrictions. The question today, is whether further market power mitigation is required in response to the end of the PPAs. The questions are essentially the same, and thus the solution should be the same – like today, following the end of the PPAs a party shall not hold offer control in excess of 30%. As such, TCE submits that it would be an inefficient use of resources to repeat the work that has already been done.*

*That said, the supply mix in Alberta has changed, and will continue to change, since the FEOC Regulation and the 30% offer control limit came into force in 2009. Since that time, Alberta has seen significant growth in both renewable generation and cogeneration, most of which is offered into the market at \$0/MWh (the latter due to heat supply obligations) and exerts downward pressure on power prices. This trend is expected to continue. Accordingly, the 30% offer control limit is more pro-competitive today than it was ten years ago. Since, the 30% control limit was acceptable then, it should be more than acceptable today, and even more so in the future.*

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1. White Paper on Implementation of Policy Enhancements Supporting Section 6 of the Electric Utilities Act and Alberta's Fair, Efficient, and Openly Competitive Electricity Market, Alberta Department of Energy, January 8, 2008, page 2 of 22.

2. *Ibid*, page 4 of 22.

3. July 2008 Supplemental White Paper on the Implementation of Policy Enhancements Supporting Section 6 of The Electric Utilities Act and Alberta's Fair, Efficient and Openly Competitive Electricity Market, July 31, 2008, page 3 of 7.

4. *Ibid*, page 3 of 7.

5. *Ibid*, page 5 of 7.

<p>3.</p>	<p>If deemed that additional mitigation measures are required in the energy-only market, please indicate whether they should be applied ex-ante (mitigation occurs prior to prices being set) or ex-post (mitigation occurs following market prices being set).</p>	<p><i>As stated above, TCE submits that additional mitigation measures are not necessary at this time or as a result of the end of the PPAs. Before “deeming” that mitigation measures are required, TCE strongly recommends that an analysis be conducted to determine whether a problem exists, and if so, the extent of the problem, and a thorough consideration of all the possible solutions to solve the problem, rather than the symptoms of the problem. TCE’s comments provided below are under the assumption that it has been determined that a problem exists that requires additional mitigation measures.</i></p> <p><i>TCE is concerned by the nature of the comments requested by the AESO, which seems to have limited the potential measures to ex-ante and ex-post mitigation. If additional measures are needed, there are many mitigation options other than those presented. Both of the proposed options would serve to correct the symptom of high prices, but fail to correct the underlying problem, which is the lack of competition. The solution should not be to implement a host of new market rules, whether ex-ante or ex-post, that interfere with the operation of the market.</i></p> <p><i>TCE is particularly concerned that the AESO is considering ex-post mitigation of market prices. This is very different than ex-post monitoring, which has been, and should continue to be, an integral component of the market mitigation framework as recognized by the Department in 2008. Ex-post mitigation would interfere with the fair, efficient and openly competitive operation of the market as both generators and loads rely heavily on the market outcomes to make investment decisions.</i></p> <p><i>As stated above, ex-ante mitigation measures are not pro-market and are generally complicated as we saw from the energy market mitigation rules proposed for the capacity market. Ex-ante mitigation measures are inconsistent with the “practical and relatively simple” approach to market power mitigation that the Department found desirable in July 2008.</i></p> <p><i>Instead, if it is determined that additional mitigation is required, the preferred method should be to adjust the absolute offer control limit. This would address the problem rather than the symptom, promote competition, and be consistent with Alberta’s historical precedent. However, a revised limit must not be determined on an ad-hoc basis. An appropriate offer control limit must be determined using an evidenced-based approach by way of Alberta-specific studies and analysis.</i></p> <p><i>Any comparisons to other jurisdictions must be done cautiously. Small markets, such as Alberta’s, cannot be compared to larger markets that are able to sustain lower concentration ratios due to their size. This is consistent with competition policy in Canada vs the United States where the former accepts higher concentration levels</i></p>
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		<p>than the latter to reflect the significant difference in the size of the corresponding markets.</p>
4.	<p>What has been effective in Alberta's historical approach to market power mitigation in the operating reserves market, and what could be improved?</p>	<p><i>As in the energy market, the combination of legislation, regulation and market rules have been effective to create a competitive operating reserve market. Ex-post monitoring from the MSA helps to ensure that the competitive market remains that way. The voluntary nature of the market allows generators to enter, and creates the threat that they will enter, the operating reserves market should rents rise beyond competitive levels.</i></p> <p><i>To be consistent with the authoritative nature of the market rules, and for appropriate AUC oversight and transparency, the 80 MW operating reserve limit should be contained within a market rule rather than within the WattEx contract.</i></p>
5.	<p>Do you expect the historical approach to market power mitigation in the operating reserves market (e.g. FEOC regulation, indexed to pool price) will be effective on a go-forward basis? If yes, please explain your rationale. If no, please explain your rationale and changes required.</p>	<p><i>Yes, TCE is not aware of any changes post-PPAs that would harm competition in the operating reserves market. Market participants that are currently not active in the operating reserves market could become active if prices were to rise. This potential entry would dampen incentives to exercise market power.</i></p>
6.	<p>If deemed that additional mitigation measures are required in the operating reserves market, please indicate whether they should be applied ex-ante (mitigation occurs prior to prices being set) or ex-post (mitigation occurs following market prices being set).</p>	<p><i>Please see TCE's general comments to #3 above.</i></p> <p><i>With specific respect to the operating reserves market, should it be determined that a problem exists, TCE recommends that the primary focus be to ensure that the market rules are not limiting entry. New battery storage technologies could become competitive in this market, but face market rules restrictions that restrict entry.</i></p>
7.	<p>What criteria should be considered in evaluating Alberta's mitigation framework? Would you rank one or some of these criteria more highly than others?</p>	<p><i>Alberta's mitigation framework should:</i></p> <ul style="list-style-type: none"> <li><i>• promote dynamic efficiency;</i></li> <li><i>• provide generators the opportunity to earn a fair return to ensure future investment;</i></li> <li><i>• focus on measures that promote competition, rather than administrative measures that interfere with the market; and</i></li> <li><i>• follow a practical and relatively simple approach.</i></li> </ul>

8.	<p>Are there unique characteristics of Alberta's electricity market that may impact whether the market power mitigation approaches used in other jurisdictions are suitable for Alberta? If so, please describe them.</p>	<p><i>Yes, Alberta's electricity market design is unique compared to other jurisdictions. First, Alberta has an energy-only market that is fundamentally different from the capacity markets found in many jurisdictions. As a result, Alberta does not have a second market to provide for any missing money if power prices are too low to recover the total costs of power production. As such, mitigations measures applied in those jurisdictions are likely not compatible with Alberta's market design.</i></p> <p><i>Second, even among other energy-only markets, Alberta's market is unique. Alberta's supply mix contains a significant proportion of cogeneration that is generally offered into the market at \$0/MWh resulting in lower prices. In addition, the Alberta market is considerably smaller than most other electricity markets making it more difficult for generation to recover fixed costs. Accordingly, limiting concentration ratios in Alberta to those implemented in other jurisdictions may unnecessarily create a missing money problem and inhibit future investment.</i></p> <p><i>For these reasons, TCE recommends caution, and consultation with market participants, when considering mitigation measures and levels used in other jurisdictions.</i></p>
9.	<p>What do you think the appropriate role for the AESO is in Alberta's mitigation framework?</p>	<p><i>The appropriate role for the AESO is as currently laid out in legislation.</i></p> <p><i>The AESO is responsible for the operation and administration of the energy and operating reserves market. In this regard, the AESO's role is to establish rules that support a FEOC market and are in the public interest.</i></p>
10.	<p>What do you think the appropriate role for the MSA is in Alberta's mitigation framework?</p>	<p><i>The appropriate role for the MSA is as currently laid out in legislation.</i></p> <p><i>The MSA's primary role is limited to surveillance, investigation and enforcement activities to support the FEOC operation of the electricity market.</i></p>
11.	<p>Please describe your role in the Alberta electricity market.</p>	
	<p>a. Are you a load, a generator, both, neither (e.g. developer, storage, interested party)</p>	<p><i>TCE is a generator, importer, exporter, developer, and load.</i></p>
	<p>b. What is the approximate size of your load and/or generation?</p>	<p><i>TCE has in excess of 500 MW of generation (including imports) and is a significant load customer.</i></p>

	c. Do you participate in the energy market, AS market, both?	<i>Both.</i>
	d. Do you forward hedge? If so, is it physically, financially, both? What percentage of your portfolio is hedged?	<i>No comment.</i>

Thank you for your input. Please email your comments to: [stakeholder.relations@aeso.ca](mailto:stakeholder.relations@aeso.ca).