

Bulletin 2009-30

November 26, 2009

Stakeholder Consultation on ISO Rule Objections, Complaints and Related Matters

On July 29, 2009, the Alberta Utilities Commission (Commission or AUC) issued [Bulletin 2009-020](#) and a discussion paper prepared by Commission staff. The discussion paper reviewed stakeholder comments to surveys that were conducted in early 2009, and sought further stakeholder comments on the following topics:

- Process to hear objections to ISO rules;
- Process to hear complaints to ISO rules;
- Information Technology access matters; and
- AUC Rule 019 – *Specified Penalties* (AUC Rule 019) and Bill 50¹ considerations.

The Commission received comments on the July 29, 2009 bulletin and discussion paper from ten parties, and posted these comments to the [Market Consultation](#) section of its website.

The Commission has reviewed the comments of stakeholders, and has attached its views with respect to ISO rule objection and complaint proceedings and its next steps with respect to consultation regarding AUC Rule 017 – *Procedures and Process for Development of ISO Rules and Filing of ISO rules with Alberta Utilities Commission* (AUC Rule 017), AUC Rule 019 and Alberta Reliability Standards.

Any questions regarding the attached material should be directed to John Esaiw at (403) 592-4479, or by email to john.esaiw@auc.ab.ca or Darin Lowther at (403) 592-4507, or by email to darin.lowther@auc.ab.ca.

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¹ Bill 50 is the proposed *Electric Statutes Amendment Act, 2009*, introduced in the Alberta Legislature on June 1, 2009.

Issue 1: Process for Objections to ISO Rule Proceedings

1.1 Option 1: Incorporate AESO Consultation Process as Part of ISO Rule Objection Hearing Proceeding or Option 2: Revise the Current ISO Objection Proceeding Process

The Alberta Electric System Operator (AESO) supported Option 1 as outlined in the Commission's Discussion Paper. EPCOR Utilities Inc. (EPCOR) expressed partial support for Option 1 as discussed below.

ATCO Power Ltd. (ATCO), Capital Power Corporation (Capital Power), ENMAX Energy Corporation (ENMAX), the Independent Power Producers Society of Alberta (IPPSA), TransAlta Utilities Corporation (TransAlta) and TransCanada Energy Ltd. (TransCanada) supported Option 2 as outlined in the Commission's Discussion Paper.

AESO Consultation Process

The AESO stated that its plans are to develop an enhanced AESO consultation process that is "comprehensive, inclusive, transparent, fair and efficient".² The AESO also stated that its consultation should commence early in the rule-making process, be well documented, contain more formal steps than the existing process, be described in writing and be consistently applied.³ To achieve this, the AESO proposed a number of specific changes to its existing consultation process:

- commencing consultations as early as possible by formal notice;
- including discussion papers, technical meetings and working group discussions;
- encouraging participants to register interest in the consultation, to fully document and share their concerns or suggestions and to submit a position letter with written reasons for their position to the AESO and other parties;
- seeking stakeholder interest into the terms of reference of a consultation and future consultations;
- documenting comments from stakeholders;
- providing the rationale for accepting or rejecting stakeholder recommendations; and
- providing the Commission with a consultation summary that includes the parties to consultation, the consultation steps, a consultation log of dates and topics of all formal consultation meetings, the terms of reference and a matrix of stakeholder comments and AESO responses.

The AESO proposed that this enhanced consultation process would provide the Commission with a more detailed record for any Objection proceeding. The degree of detail would be commensurate with the importance and complexity of the proposed or amended rule.

The AESO expressed concern with the inefficiencies and increased costs that could result if a stakeholder is not fully engaged on a proposed rule until after the rule has been filed with the

² AESO Comment Letter dated August 28, 2009, p. 2.

³ *Ibid.*

Commission. The AESO also suggested that allowing a party to present its case through an objection after the AESO consultation process has been completed may be unfair to other market participants.

ENMAX disagreed. It stated that parties may assume that any impact of an ISO rule revision would be minor, and may decide not to participate in a rule consultation process due to finite resources, only to determine after some operational experience that the impact of the rule revision is substantial or that a rule has unintended consequences that were not initially apparent. ENMAX further stated that it is imperative that *a priori* limitations not be placed on a party's ability to object or complain, even in the absence of participation in the AESO's rule development process.

EPCOR expressed partial support for Option 1 to the extent that the AESO should demonstrate the purpose and expected results of a proposed rule at the outset of a consultation. However, EPCOR expressed concern that the potential for a record of all aspects of a consultation being part of a Commission proceeding would hamper the free flow of discussion during the consultation and that parties will be forced to conduct themselves during the consultation as if they were already in a hearing. In the end EPCOR suggested that a complete and thorough record of the consultation into the hearing record would do more harm than good.

IPPSA indicated there would be a potentially onerous documentation effort required in Option 1. However, IPPSA supported changes to the AESO consultation process that had the AESO clearly describe the impetus for the proposed rule and the AESO provide participants with a written decision issued by the AESO with reasons.

TransAlta stated that Option 1 created a large information and administrative burden too early in the process, and suggested that the Commission should consider evidence beyond just the consultation record. TransAlta supported encouraging stakeholders to participate in the consultation process and believed that stakeholders would have to demonstrate extenuating circumstances to object to a rule if they had not been involved in the consultation process.

TransCanada supported the expansion and increased documentation of the AESO consultation process. However TransCanada noted that the views of the AESO and stakeholders evolve during the consultation process and therefore, transforming the stakeholder consultation process into a precondition for objections may reduce the freedom of information discussions. Further, this transformation would require that significant resources of stakeholders, including legal resources, be deployed at the outset of every consultation. As well, TransCanada submitted that a market participants' right to object pursuant to section 20.4 of the *Electric Utilities Act* cannot and should not be limited on the basis of their participation in the AESO consultation process, nor on the basis of the matters raised during the AESO consultation process. TransCanada noted that unlike the complaints process, there is no threshold test for the objections process. Finally, TransCanada suggested that limiting participation as suggested under Option 1 will lead to an increased number of rule complaints after the fact.

The Commission agrees with the AESO and other parties that an ISO rule consultation process should be robust, fully documented and encompass full participation from market participants and interested parties. There are a number of advantages to holding and participating in a comprehensive consultation process at the time an ISO rule is developed, amended or removed. It provides the potential to create the best rule possible and in some cases avoid the need for a

hearing or the hearing of certain issues. To the extent that a hearing is required, it may lead to a hearing process that is quicker, more efficient and less costly.

The Commission considers that an ISO rule that is filed with the Commission by the AESO should include the following:

- a copy of the proposed ISO rule;
- a description of what the proposed ISO rule is intended to address and the mischief intended to be remedied by the proposed ISO rule;
- a history of discussions and consultations, including:
 - a copy of any discussion papers prepared regarding the proposed ISO rule and any comments received in response to the discussion papers;
 - any related written comments, submissions, questions and exchanges between market participants or other persons regarding the proposed ISO rule;
 - the name of the market participant or other person who submitted each comment, submission, question or exchange and the date on which each was submitted;
 - the reply to each comment, submission, question or exchange prepared by the ISO, market participant or other person regarding the proposed ISO rule and the date each was submitted; and
 - the date or dates the letter of notice respecting the proposed ISO rule was sent to the market participants and posted on the ISO website.
- the rationale or basis for the position of the ISO that clearly explains why certain positions were rejected and other positions accepted in determining the proposed ISO rule change;
- the proposed date for the coming into force of the proposed ISO rule; and
- in a case where the ISO is requesting that the publication of the proposed ISO rule change would not be in the public interest, an explanation for the request and the summary of the proposed ISO rule that would be made available.

The Commission intends to rely on this comprehensive record filed by the AESO as part of the evidence it considers when hearing an Objection proceeding.

Based on the above, the Commission will draft amendments to AUC Rule 017 for stakeholder consultation.

A market participant who has not participated in the AESO consultation process is entitled to object to an ISO rule that is filed under subsection 20.2 of the *Electric Utilities Act*. However, in filing its objection to an ISO rule pursuant to subsection 20.4 of the *Electric Utilities Act*, the market participant should include, as part of its filing:

- (a) any new facts that were not part of the AESO record; and
- (b) where the grounds raised in the objection were addressed in the AESO consultation as part of the AESO record, a summary of how the AESO responded to the grounds raised in the objection; or

- (c) if the grounds were not raised during the AESO consultation, why they were not raised or are otherwise not found in the AESO record.

The Commission expects that the AESO, in filing a comprehensive record, will present a panel at any oral hearing held by the Commission in order to answer questions about the ISO rules and the AESO record.

1.2 Objection Proceeding Process Matters

Written Proceedings

The AESO, Capital Power, EPCOR, IPPSA, TransAlta and TransCanada agreed that written proceedings may be appropriate for certain rule objection proceedings.

The Commission has experience in conducting both oral and written proceedings, and will conduct oral or written proceedings with respect to ISO rule objections. Factors that will be considered in determining whether an oral or written proceeding is conducted include the nature and complexity of the ISO rule and related subject matter as well as the completeness of the AESO record. This determination will be made by the panel hearing the objection on a case by case basis.

Information Requests

ATCO, Capital Power, ENMAX, EPCOR, IPPSA, TransAlta and TransCanada agreed that an information request and response process prior to the commencement of an objection proceeding would be beneficial. Capital Power suggested that for highly technical issues information requests and an oral process to debate issues be considered.

The Commission is of the view that a fully documented AESO record would, in most circumstances, obviate the need for information requests. To the extent that parties to a proceeding see a requirement for information requests, those parties will be required to seek permission from the Commission to do so by filing a motion pursuant to the Commission's Rule 001 – *Rules of Practice*. Any motion of this nature should include copies of the draft information requests and an accompanying explanation as to why the information requests are necessary.

Agreed Statement of Issues

The AESO submitted that in most cases an agreed statement of facts would be too time consuming, and instead suggested that each party file its own statement of facts.

Capital Power proposed the use of an agreed statement of issues in straightforward cases, but did not consider it appropriate to attempt to reach an agreed statement of issues in all proceedings.

IPPSA commented that an agreed statement of issues could perhaps quickly demonstrate common ground amongst parties and leave the hearing to issues that are under debate. IPPSA also recommended an optional 'on the record' technical briefing as a way of augmenting the agreed statement of issues.

TransCanada supported an agreed statement of issues, if one could be obtained.

The Commission will not require the filing of either an agreed statement of facts or issues. However, where possible, the Commission supports an attempt by parties to file an agreed statement of facts or an agreed statement of issues.

Proposed Timeline and Schedules

The Commission has attached schedules of normal processes and timelines for ISO rule objection proceedings as a guide for market participants. The schedule and process for each proceeding will be determined by the Commission panel on a case by case basis.

Issue 2: Process for ISO Rule Complaints Proceedings

AESO Consultation Process

The AESO agreed there is merit in market participants first approaching the AESO regarding any concerns or complaints about an existing ISO rule. Further, the AESO proposed that as there would be benefit from engaging in a consultation process before a complaint proceeding is initiated, that the Commission should consider requiring a complainant to approach the AESO prior to filing a complaint about an ISO rule with the Commission.

TransCanada stated that the required procedural steps will vary on a case by case basis, regardless of whether a proceeding deals with a rule objection or complaint.

Capital Power suggested that ISO rule complaint proceedings closely follow the process for ISO rule objections proceedings. EPCOR and ENMAX made similar comments. TransCanada supported the imposition of interrogatories, written hearings and an agreed statement of issues on the same basis as objection proceedings.

The Commission supports an ISO rule complaint process that is preceded by discussions between the AESO and the complainant, as these pre-filing discussions may lead to:

- a hearing process that is quicker, more efficient and less costly;
- resolution of some issues between the AESO and interested parties, or more precisely define the issues at dispute, thereby reducing the issues to be addressed in an ISO rule complaint proceeding;
- an agreed statement of facts or statement of issues relevant to an ISO rule complaint proceeding; and
- a more full examination of options prior to an ISO rule objection proceeding.

A market participant that complains about an ISO rule pursuant to section 25 of the *Electric Utilities Act* should include, as part of their filing:

- (a) where the grounds raised in the complaint were addressed in discussions with the AESO prior to filing the complaint, how the AESO responded to the grounds raised in the complaint; or
- (b) if the grounds were not raised with the AESO prior to filing the complaint, why they were not raised.

The Commission will take into consideration these factors when considering the threshold test to hear a complaint pursuant to subsection 25(4) of the *Electric Utilities Act*.

Agreed Statement of Issues

The AESO submitted that in most cases an agreed statement of facts would be too time consuming, and instead suggested that each party file its own statement facts.

The Commission considers the filing of an agreed statement of facts or issues to be valuable and encourages parties to file these documents whenever possible.

Proposed Timeline and Schedule

The AESO and TransAlta agreed with the proposed timeline for ISO Rule complaint proceedings. However, given the limited experience with complaint proceedings, TransAlta suggested that the Commission maintain a flexible approach to complaints proceedings.

The Commission has attached schedules of normal processes and timelines for ISO rule complaint proceedings as a guide for market participants. The schedule and process for each proceeding will be determined by the Commission panel on a case by case basis.

Issue 3: Electronic Information Access

Capital Power suggested that the Commission provide a schedule of ongoing training on the Digital Data Submission (DDS) system to help users get trained on the features of the system.

EPCOR, IPPSA and TransAlta supported making transcripts generally available as part of the proceeding records posted on the AUC web site. IPPSA and TransAlta suggested this would act as a means to increase the transparency of Commission proceedings.

TransAlta supported improvements to the Commission's electronic systems by making them more user-friendly and reducing the steps required to access documents in the system.

Commission staff currently provide customized one-on-one training to parties that seek training on the use of the Commission's DDS systems. Training is available at either of the Commission's Calgary or Edmonton offices, and is scheduled by contacting (780) 643-1055 or SystemService@auc.ab.ca.

Parties that have comments or questions regarding the use of the Commission's electronic systems are encouraged to submit these comments or questions to SystemService@auc.ab.ca or call (780) 643-1055.

The Commission is considering the request by market participants and interested parties to make proceeding transcripts available on the AUC website and will advise parties as to its decision at a later date.

Issue 4: AUC Rule 019

AltaLink Management Ltd. (AltaLink), ATCO, Capital Power, EPCOR, IPPSA, Powerex Corp. (Powerex) and TransCanada supported further stakeholder consultation on AUC Rule 019.

AltaLink recommended that the AUC's consultation consider the exemption of purely regulated transmission facility owners from the scope of AUC Rule 019. ATCO expressed concern that

AUC Rule 019 is not comprehensive enough to capture ISO rule contraventions that should not be classified as administrative penalties. Capital Power suggested that all ISO rules should be captured by the specified penalty rule. IPPSA supported a review of AUC Rule 019 to determine if other ISO rules might fit in the specified penalty regime. TransAlta was not opposed to a review of AUC Rule 019, if there are additional rules that can be identified as areas of concern. TransCanada suggested that the limitation period with AUC Rule 019 be re-opened for discussion.

Suggestions were made that the removal of ISO rule 1.10 and the introduction of the *Fair, Efficient and Open Competition Regulation* necessitated a review of AUC Rule 019.

When AUC Rule 019 was first established, the Commission recognized that changes to specified penalty tables would be required from time to time as changes were made to ISO rules. The most recent change was on July 16, 2009 when the AESO filed amendments to ISO rule 6.6 thereby requiring amendments to AUC Rule 019. The Commission will consider the comments provided by parties respecting future proposed changes to the specified penalty tables in particular and to AUC Rule 019 in general.

The Commission notes that there are currently provisions in Bill 50 that address Alberta Reliability Standards and possible amendments to AUC Rule 019. The Commission will announce further consultations regarding AUC Rule 019 in due course.

Issue 5: Bill 50 and Reliability Standards

The AESO suggested that it is not necessary for the Commission to develop a specific rule regarding the process for the development and filing of Alberta Reliability Standards. Rather, the enhanced rule consultation process under consideration by the AESO will be available for consideration by the reliability standards committee and subcommittees.

ATCO, Capital Power, EPCOR, IPPSA and TransCanada expressed support for Alberta Reliability Standards being included in a specified penalties table. EPCOR suggested that a separate process for consultation, filing and approval of Reliability Standards is not necessary, and that the process under AUC Rule 017 is appropriate. IPPSA suggested that Alberta Reliability Standards be enforced under a specified penalty regime. TransAlta recommended the use of a specified penalty matrix for Alberta Reliability Standards similar to that used by North American Electric Reliability Corporation (NERC). TransCanada indicated that the penalties could form part of the Standard itself, be added to AUC Rule 019 or be found in a separate rule.

The Commission notes that there are currently a number of provisions in Bill 50 that address Alberta Reliability Standards. The Commission will announce further consultations regarding Alberta Reliability Standards in due course.

APPENDIX A

The following is a schedule for an oral ISO rule objection proceeding. Items that are bolded are changes from the process communicated by the Commission on June 27, 2008.⁴ The schedule is only a guide, as the final determination of any hearing process will be determined by the Commission on a case by case basis.

Process – Objection to an ISO Rule (Oral Hearing)

	Submission Type	Timeframe	Comment
1.	ISO files ISO Rule with the Commission	Not applicable	Follows process as outlined in Rule 017
2.	Commission issues Notice of Filing and Notice for Objection	Within 5 days of ISO filing with the Commission	Legislated Requirement
3.	Market Participant Objector (MPO) files Notice of Objection	10 days following Commission Notice of Filing and Notice for Objection	Legislated Requirement Parties should include in their objection an estimate of the time required to file Supplemental Evidence
4.	Commission issues Notice of Proceeding	Flexible	Commission to appoint panel and establish process
5.	Commission issues Schedule	Flexible	May be combined with Commission Notice of Proceeding
6.	All other parties file Statement of Intent to Participate (SIP). Parties intending to file Evidence must so indicate in their SIP	10 days from Notice of Proceeding or as specified in Commission Schedule	
7.	MPO files Supplemental Evidence (if any) Parties supporting the MPO file Evidence (if any). No new grounds to be introduced	2 weeks following Notice of Proceeding or as specified in Commission Schedule	
8.	ISO and parties supporting the ISO (if any) file Evidence (if any)	20 days following filing of Supplemental Evidence, or as specified in Commission Schedule	

⁴ For further background regarding the existing process, see Proceeding ID 31, Notice of Proceeding, June 27, 2008.

	Submission Type	Timeframe	Comment
9.	MPO and parties supporting the MPO file Rebuttal Evidence (if any)	10 days following filing of ISO/ISO supporter(s) Evidence, or as specified in Commission Schedule	
10.	Oral Hearing	2 weeks following filing of Rebuttal Evidence (if any) or as specified in Commission Schedule	
11.	Argument and Reply Argument	Form and timing of Argument to be determined by presiding Commission panel.	

APPENDIX B

The following is a schedule for a written ISO rule objection proceeding. Items that are bolded are changes from the process communicated by the Commission on June 27, 2008. The schedule is only a guide, as the final determination of any hearing process will be determined by the Commission on a case by case basis.

Process – Objection to ISO Rule (Written Hearing)

	Submission Type	Timeframe	Comment
1.	ISO files ISO Rule with the Commission	Not applicable	Follows process as outlined in Rule 017
2.	Commission issues Notice of Filing and Notice for Objection	Within 5 days of ISO filing with the Commission	Legislated Requirement
3.	Market Participant Objector (MPO) files Notice of Objection	10 days following Commission Notice of Filing and Notice for Objection	Legislated Requirement Parties should include in their objection an estimate of the time required to file Supplemental Evidence
4.	Commission issues Notice of Proceeding	Flexible	Commission to appoint panel and establish process.
5.	Commission issues Schedule	Flexible	May be combined with Commission Notice of Proceeding
6.	All other parties file Statement of Intent to Participate (SIP). Parties intending to file Evidence must so indicate in their SIP	10 days from Notice of Proceeding or as specified in Commission Schedule	
7.	MPO files Supplemental Evidence (if any) Parties supporting the MPO file Evidence (if any). No new grounds to be introduced	2 weeks following Notice of Proceeding or as specified in Commission Schedule	
8.	ISO and parties supporting the ISO (if any) file Evidence (if any)	20 days following filing of Supplemental Evidence, or as specified in Commission Schedule	
9.	MPO and parties supporting the MPO file Rebuttal Evidence (if	10 days following filing of ISO/ISO supporter(s)	

	Submission Type	Timeframe	Comment
	any)	Evidence, or as specified in Commission Schedule	
10.	Written Argument	2 weeks following filing of Rebuttal Evidence (if any) or as specified in Commission Schedule	
11.	Written Reply Argument	10 days following Written Argument	

APPENDIX C

The following is a schedule for an oral ISO rule complaint proceeding. Items that are bolded are changes from the process communicated in past proceedings. The schedule is only a guide, as the final determination of any hearing process will be determined by the Commission on a case by case basis.

Process – First Stage of a Complaint of an ISO Rule

	Submission Type	Timeframe	Comment
1.	Market Participant Complainant (MPC) files Complaint with the Commission	Not applicable for ISO rules	Commission to appoint panel and establish process
2.	Commission issues Notice of Threshold Test re: subsections 25(4) and 25(4.2) of the EUA Filing of Statement of Intent to Participate (SIP) for all parties.	Flexible	The threshold test deals with matters addressed in subsections 25(4) and 25(4.2) of the EUA
3.	Commission issues Ruling on subsections 25(4) and 25(4.2) of the EUA	Flexible	The Commission may decline to hold a hearing based on the provisions of subsections 25(4) and 25(4.2) of the EUA

The following is a schedule for the second process stage of an oral complaint hearing regarding an ISO rule. This stage would only take place if the complainant has met the threshold tests pursuant to subsections 25(4) and 25(4.2) of the EUA:

Process – Second Stage of a Complaint of an ISO Rule (Oral Hearing)

	Submission Type	Timeframe	Comment
4.	Commission issues Notice of Proceeding	Flexible	
5.	Commission issues Schedule	Flexible	May be combined with Commission Notice of Proceeding
6.	Parties supporting MPC file Evidence (if any). No new grounds to be introduced.	2 weeks following Commission Ruling on threshold tests or as specified in Commission Schedule	
7.	ISO and parties supporting the ISO (if any) file Evidence	20 days following filing of Evidence by parties supporting MPCs (if any) or	

	Submission Type	Timeframe	Comment
		as specified in Commission Schedule	
8.	MPC and parties supporting the MPC file Rebuttal Evidence (if any)	10 days following filing of ISO/ISO supporter(s) Evidence, or as specified in Commission Schedule	
9.	Oral Hearing	2 weeks following filing of Rebuttal Evidence (if any) or as specified in Commission Schedule	
10.	Argument and Reply Argument	Form and timing of Argument to be determined by presiding Commission panel.	

APPENDIX D

The following is a schedule for a written ISO rule complaint proceeding. Items that are bolded are changes from the process communicated in past proceedings. The schedule is only a guide, as the final determination of any hearing process will be determined by the Commission on a case by case basis.

Process – First Stage of a Complaint of an ISO Rule

	Submission Type	Timeframe	Comment
1.	Market Participant Complainant (MPC) files Complaint with the Commission	Not applicable for ISO rules	Commission to appoint panel and establish process
2.	Commission issues Notice of Threshold Test re: subsections 25(4) and 25(4.2) of the EUA Filing of Statement of Intent to Participate (SIP) for all parties.	Flexible	The threshold test deals with matters addressed in subsections 25(4) and 25(4.2) of the EUA
3.	Commission issues Ruling on subsections 25(4) and 25(4.2) of the EUA	Flexible	The Commission may decline to hold a hearing based on the provisions of subsections 25(4) and 25(4.2) of the EUA

The following is a schedule for the second process stage regarding a written complaint hearing regarding an ISO rule. This stage would only take place if the complainant has met the threshold tests pursuant to subsections 25(4) and 25(4.2) of the EUA.

Process – Second Stage of a Complaint of an ISO Rule (Written Hearing)

	Submission Type	Timeframe	Comment
4.	Commission issues Notice of Proceeding	Flexible	
5.	Commission issues Schedule	Flexible	May be combined with Commission Notice of Proceeding
6.	Parties supporting MPC file Evidence (if any). No new grounds to be introduced.	2 weeks following Commission Ruling on threshold tests or as specified in Commission Schedule	
7.	ISO and parties supporting the ISO (if any) file Evidence	20 days following filing of Evidence by parties supporting MPCs (if any) or	

	Submission Type	Timeframe	Comment
		as specified in Commission Schedule	
8.	MPC and parties supporting the MPC file Rebuttal Evidence (if any)	10 days following filing of ISO/ISO supporter(s) Evidence, or as specified in Commission Schedule	
9.	Written Argument	2 weeks following filing of Rebuttal Evidence (if any) or as specified in Commission Schedule	
10.	Written Reply Argument	10 days from Written Argument	