

AUC Rule 017 Consultation Meeting #2 Summary

Location: Calgary and Edmonton Hearing Rooms

Date: June 26, 2018

Time: 10:00 am – 1:33 pm

Attendees:

Calgary

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|---------------------------------|-------------------|
| 1. Mark Thompson | TransCanada |
| 2. Doug Simpson | UCA |
| 3. Doug Doll | MSA |
| 4. Anders Renborg | MSA |
| 5. Randy Stubbings | ENMAX |
| 6. Parvez Khan | ENMAX |
| 7. Horst Klinkenberg | Suncor |
| 8. Akira Yamamoto | TransAlta |
| 9. Carolyn Dahl Rees | TransAlta |
| 10. Richard Penn | IPCAA |
| 11. Todd Cole | MEG Energy |
| 12. Nola Ruzycski | UCA |
| 13. Christine Runge | Power Advisory |
| 14. Evan Bahry | IPPSA |
| 15. Bryan Hunter | AltaLink |
| 16. Mike Deising | AESO |
| 17. Jackie Gow | AESO |
| 18. Pauline McLean | AESO |
| 19. Mark Nesbitt | ATCO Generation |
| 20. Kurtis Glasier | ATCO Generation |
| 21. Grant Berry | Capital Power |
| 22. Markus Lehmann | Navigatio Capital |
| 23. Carl Fuchshuber | AUC |
| 24. Elizabeth von Engelbrechten | AUC |
| 25. Joanna Wright | AUC |
| 26. Pooja Sharma | AUC |
| 27. Gabriella Zaparilla | AUC |

Edmonton

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| 28. Colette Chekerda | ADC |
| 29. Stephen Thornhill | EPCOR |
| 30. Travis Robinson | EPCOR |
| 31. Kevin Thompson | AUC |

In Calgary and Edmonton, AUC staff opened the meeting, thanking everyone for their participation in the Rule 017 consultation process and offering introductory remarks. All attendees identified themselves and their company affiliations.

AUC staff explained the progression of the agenda and upcoming deadlines:

July 6, 2018 – Second round of written comments due from participants

July 17, 2018 – Comment matrix compiled from written comments released

August 1, 2018 – Finalized rule in place

Discussion on Rule Consultation (Section 20.81)

Section 4

Stakeholders questioned if there was any recourse for a market participant to escalate an issue proposed under Section 20.81 to the AUC if the AESO does not believe it's an issue? There was additional concern regarding the AESO receiving a "complete proposal" under Section 20.81 and the amount of work on market participants with the possibility the AESO does not believe the proposed rule is necessary.

AUC staff responded that any process under Section 20.81 is the responsibility of the AESO. If there is a perception the AESO is not conducting itself appropriately, there is the potential for a complaint about their behavior. Staff also stated that the applicant for ISO rules is still the AESO and while market participants have an avenue to propose rules, the AESO is the applicant under the legislation.

The AESO stated it had concerns that with the addition of Section 20.81 to the legislation, there could be an explosion of partially formed proposals for ISO rules so there is justification to the term "complete proposal" in its opinion. Stakeholders responded that the requirement for a proposal from market participants should perhaps be somewhere between a "napkin proposal" and a fully developed proposal.

The AESO stated it has timing concerns about section 20.81. The AESO stated it has to prioritize a large volume of issues and cannot always begin advancing the process as soon as the issue is identified. The AESO inquired about why a 30 day deadline to issue notice following receipt of a proposal under 20.81 was needed. The AESO stated that even complete proposals may require additional time to sort through any other issues, especially with the potential for a large number of rule proposals to be happening at once

AUC staff stated that it was meant to provide assurance to market participants that a proposal and consultation would move forward in a timely manner, but would consider any changes the AESO proposes in its written comments.

Stakeholders also had concerns regarding authoritative and non-authoritative documents with some suggesting that business practices and non-authoritative documents go through the same rigor as ISO rules.

AUC staff stated that concerns with AESO behaviour still have a complaint process available, as well as the ability to bring forward issues that should perhaps be in rules under the 20.81 process.

The AESO responded that Rule 017's focus is on rules and that is where the rigor needs to be. It stated that there are a number of information documents that are considered to be non-authoritative guidance. Concerns with what information ends up in a rule and what ends up in an information document will be brought up in consultation. The AESO stated that proposals from market participants will likely be iterative with back-and-forth to develop the proposal properly, making the onus of developing a proposal less for the market participant.

Stakeholders inquired about any process if there are concerns over the whole design of the market (energy and ancillary services market related to capacity market rules) regarding efficiency and the price signals the market provides to generators, including during the provisional stage.

AUC staff stated that it would be approving the full set of market rules, including existing ISO rules that need to be amended, so there will be an opportunity to share any concerns through the discovery processes of the provisional rules proceeding and once again during the full approval process of the provisional rules.

Stakeholders suggested that it would be useful for stakeholders to have access to data and analysis regarding a rule proposal during the consultation process in order to understand the magnitude of a certain issue. Providing market participants with data in the development stage of the rule may help speed things along, rather than only providing that information when the AESO files a rule with the AUC.

Section 5

The AESO asked about the rationale behind asking the MSA and interested parties to comment on the form of consultation. AUC staff responded that it was to allow everyone to put their thoughts on the table as to what level and form of consultation is appropriate based on their understanding of the rule.

Stakeholders inquired about what the next step would be once the AESO has everyone's thoughts on the consultation process. It was suggested that Rule 017 should also prescribe that market participants can suggest what sort of data and analysis is required to facilitate the consultation process.

AUC staff stated that upon forming a consultation group, next steps and timelines will likely be included in AESO's communication with affected parties. Next steps were not specified in Rule 017 to give the AESO discretion to format the consultation process.

Section 6

There were some concerns from market participants that the AESO could exclude market participants from inclusion in the consultation process. AUC staff indicated that its intention with the consultation process was for inclusivity and that anyone who wants to participate can do so.

Additionally, the AESO can bring in participants it thinks should be part of the consultation that may not have indicated their intent to participate.

There was a debate regarding the use of ‘or’ in section 6.1(a)(i) and whether ‘and’ would be more appropriate. AUC staff indicated the wording was not meant to mean the AESO could choose one or the other (those who indicated they wanted to consult versus those the AESO thinks should be included).

One participant noted that section 6.3 requests comments on whether a proposed rule is technically deficient, but does not include FEOC or public interest and wondered why the wording does not mirror the legislation. AUC staff responded that those issues, among others, are included in the consultation required under section 6.2. Staff also noted that it did not ask the AESO to prove that their rule is not technically deficient because it is difficult to prove a negative, so this will be put to the market if they believe it is technically deficient.

Stakeholders asked AUC staff about the decision to require the AESO to post comments, but not replies. AUC staff stated that the AESO’s application would be the culmination of replies to comments and that having to respond to everyone during the consultation and then submit an application could create a large burden on the AESO, considering the replies would come to the AUC regardless.

Stakeholders responded that responses from the AESO can help market participants and contribute to efficiency in regulatory proceeding. If a participant does not receive a response to its comments, it would likely seek the reason why through regulatory proceeding (for example, in information requests), slowing down the process. There was general agreement that AESO responses to comments would likely be beneficial and that it would establish a complete record, limit repetitive comments and questions, provide an opportunity for clarification and smooth the regulatory process.

Section 7

Stakeholders had concern that section 7.2, including 7.2(f), does not necessarily explain a rule’s impact on the market as a whole.

Additional concerns were raised that all the requirements within Rule 017 may not be coherent as a large number of different standards need to be met which could “tear a rule apart.” AUC staff responded that section 7 requests information and evidence from AESO to help AUC be satisfied that the criteria as set out in the legislation have been met. AUC staff stated that Rule 017 will not include provisions regarding how the Commission will reconcile the criteria and reach a decision. How criteria will be weighed and decided upon will be based on the Commission’s assessment of the evidence provided. AUC staff stated that it will solicit the market’s view on how the criteria come together to achieve objectives of legislation in the early opening of the provisional rules proceeding.

A stakeholder stated that a lot of standards in law being produced, which creates a risk from investors' point of view about how AESO rules will be tested. There is a need for some mechanism to ensure everything is coherent. AUC staff responded that there is also new legislative criteria with meanings that will need to be explored and the AUC will solicit comments on how this should be done.

It was also suggested that positive language within Rule 017 that investors should be able to recover their fixed costs and a return on investments would give investors comfort, but this sort of language had not been accepted in the current iteration of Rule 017. AUC staff responded that this is out of scope of Rule 017, but parties may make submissions to this effect during the approval process if they wish.

The AESO wondered if the criteria in section 7.2 can be combined and suggested a comprehensive balance may be more beneficial rather than a checklist approach. AUC staff responded that if the AESO felt that part of an application speaks to multiple points of the criteria, it can highlight that. It can also provide an explanation on why certain criteria may not have been addressed.

Stakeholders inquired about the output of the early opening of the provisional rule proceeding, including if the AUC would release some sort of document framing how the AUC will make its decisions. AUC staff responded that it would not be creating a public framework document informing people how decisions will be made by the AUC, but the discussions will inform AUC how the market thinks standards should be assessed by the AUC.

Stakeholders suggested that this could be more like an administrative rules consultation – more of an informative discussion rather than creating a defined process. AUC staff responded that the intent is to make as much use of the time available as possible so we can have the most meaningful process possible within the time constraints. Exploring some issues ahead of time in order to free up time during the actual 6 month provisional approval process.

The AESO indicated that there are a number of existing AESO rules that will have to be amended or tweaked in some fashion. It inquired what the scope of review is going to be with regard to the existing rules and suggested that some changes will be administrative in nature and may not require excessive debate. The AESO stated that this is a pressing issue for it.

Part 3 – Provisional and Additional Rules (6 month – 18 month proceedings)

Section 10

The AESO had some concerns regarding timing around section 10. It is planning to move forward on some rules prior to August 1. Specifying what is truly required will be helpful to market participants.

Stakeholders inquired if the issue of the AESO notifying the market that a rule proposal has been received but ultimately rejected has been addressed in Rule 017. AUC staff stated that it has not

been addressed in this version. Staff also suggested that the legislative scheme still has outlets for people to complain about the AESO's conduct. AUC staff indicated that it did not want to increase administrative burden on AESO through the rule, though noted it is a difficult balance to strike.

The AESO added that the AESO will surely communicate with the market by stating that its intent is not to be opaque in the process and that it would be unfair if there was no communication on reasons for rejection with complete proposals.

Stakeholders inquired to the AESO if they would be consulted on the 20.81 process. The AESO indicated that with the tight timelines in place, it will announce an already developed proposal, but will be happy to take comments on it. Stakeholders had some reservation about the AESO developing this process without input. The AESO also indicated that it is concerned with timing if section 20.81 will be leveraged in regard to the provisional process.

Regarding the AESO providing comments on rejected ISO rule proposals, stakeholders were concerned that a complaint about AESO conduct can often be very difficult and does not seem to be the right mechanism if stakeholders are concerned about overall market efficiency. AUC staff indicated that as long as it does not meet the criteria for dismissal, the AUC could consider a complaint on its full merit.

A stakeholder asked if they had an alternate, fully-developed ISO rule proposal that was not selected by the AESO if they could still able to go to the AUC with it and have it considered on equal ground with the AESO's proposal. As an example, it was suggested a less complete version may have been rejected by the AESO but more work had been done.

AUC staff responded that if the alternative was developed through consultation process, it would form part of the record in AESO's submission to AUC. If further work suggested the proposal should receive more consideration, there would be the opportunity to produce the alternative in an approval proceeding.

The AESO also indicated that discussions about alternate proposals will be part of the rule development process. It did note that the timelines for the provisional process may limit the full development of an alternative, so there may be a valid point to stakeholder concerns.

Stakeholders shared their concerns regarding the spectre of retroactive changes.

In response to a question about the classification of rules as interim/provisional/etc., the AESO stated that the first package of provisional rules must be those that are essential to be in place in order to implement the auction and the 2021 delivery period. It suggested that additional rules in the 18 month period might include ancillary amendments to existing rules.

Section 12

There was some concern that ‘directly affected’ in 12.1(a)(ii) could be used by the AESO as exclusionary as well as inclusionary. AUC staff indicated that 12.1 is meant to be inclusionary and allow anyone to participate while giving the AESO the ability to extend an invitation to participate.

Old Section 13 (removed)

There was concern from stakeholders and the AESO that completed consultations not being able to be used in some manner is problematic. AUC staff assured stakeholders and the AESO that there is no prohibition on using completed consultations, but the AESO must seek out new ones on rules being developed. Rule 017 is not intending to restrict reliance on past information, but it is stressing requirement for further consultation. AUC staff thought it was cleaner to specify that there is a need to consult going forward.

AUC staff stated that the expectation is that giving the AESO discretion in the form of consultation will allow situations, such as administrative changes, to be handled differently based on the specific needs. The situation of putting out a nearly complete rule and soliciting comments would meet the criteria.

Stakeholders stated that this discussion eased some worries, but remained unsure if the removal of section 13 was appropriate and suggested some other language could be put in place.

New Section 13 (formerly 14)

Regarding a comment about what happens if the AUC directs an amendment to a provisional rule, AUC staff stated that the order will likely have explicit instructions on how the rule needs to change, and will take place very quickly. Consultation will probably not be contemplated at that time since 18 month process would also be happening.

AUC staff suggested that the provisional rules process needs to be efficient with the limited time available and focus on rules that critically require changes during the 6 month process.

Stakeholders were concerned with the timelines and fitting in issues such as capacity procurement volumes, the demand curve, and CONE will be included. AUC staff asked stakeholders if Rule 017 needs specific accommodations to address the demand curve.

The AESO indicated that it is working to determine how to package the demand curve parameters. It stated that many discrete pieces would need to be filed together and that CONE would be part of that. Stakeholders responded that CONE is integral to other elements of market design too, not just demand curve and that it could be problematic if CONE will only be heard in demand curve context. The AESO stated that that was not its intent.

One stakeholder noted that market participants need a full understanding of what the rules will look like in the delivery years they will be participating in and asked if there was any thought about pushing back the timing of auctions themselves so that all the rules and outcomes from the 18

month process are understood. They noted that there is concern with the possibility of retroactive rule-making. They indicated that new assets might be very wary of participating in auctions where rules could change from one to the next.

AUC staff responded that the intention is to give market participants a full set of rules that will be in place for first auctions, which is associated with limitation on complaints and appeals to achieve degree of certainty on the rules in place. AUC staff indicated that the Commission's retroactive power is to affect rules during delivery period after auction has taken place, and only to be exercised if absolutely necessary. AUC staff assured that it would weigh potential harm of changes compared to leaving a problematic rule in place.

The AESO stated that the structure is meant to provide certainty for investors, and a holistic picture is needed, but the timelines are not movable, so everyone will need to work around that.

In response to a stakeholder, AUC staff stated that the demand curve will be approved as part of provisional rules set.

Section 17

Stakeholders inquired about the consultation requirement for expedited rules. AUC staff stated that there is no formal consultation requirement for expedited rules because Part 2 of Rule 017 contemplates consultation being started at issue identification stage. The Commission order on the expedited rule would address future consultation.

One stakeholder pointed out that very few rules are planned to be expedited, but Rule 017 specifies rules intended as expedited. The AESO stated that it is not its intention to start with expedited in mind. The AESO continued that it would start out with the normal process and switching to expedited would only happen very rarely due to some external driver.

The expedited Mothball rule was brought up as an example where market participants had reached out well in advance but the rule had proceeded as an expedited rule regardless. Some stakeholders suggested that if the drafting of an expedited rule takes a while, the AESO should warn industry up front before it goes for approval. AUC staff stated that the obligation to consult is at issue identification stage. In the case of the mothball rule, consultation would be expected to start at recognition of rule necessity.

The AESO indicated that the appropriate trigger to begin consultation is when an idea for an ISO rule has advanced to the point where consultation can be appropriately solicited. There is an internal process at the AESO first.

Additional Topics

Demand Curve Governance

AUC staff asked stakeholders if there should be a specific section in Rule 017 regarding the demand curve. AUC staff suggested that the initial transitional rules will involve the filing of a demand curve, with a rule shepherding it through the time of effect until the next filing. AUC staff asked if this was a reasonable approach.

Stakeholders responded that there is a need for certain demand curve parameters to be addressed and updated on a yearly basis. Stakeholders suggested that this could be accomplished in Rule 017 or another rule, but market participants need some element of certainty about if/when certain parameters will be updated. Stakeholders are looking for confirmation and confidence of being able to participate in these discussions and have input into data affecting these assumptions. The AESO must have the obligation to engage and consult on demand curve parameters.

The AESO stated that it was in agreement and that yearly parameters will be visibly communicated to the public.

One stakeholder stated that trying to include the demand curve in Rule 017 at this stage will be difficult considering the August 1 deadline.

AUC staff asked stakeholders to provide any further comments on the demand curve in their written comments.

The AESO was asked if it intended to draft some descriptions of the demand curve consultation going forward and associated parameters such as load forecast and when that may be available. The AESO responded that some discussions are currently underway. The AESO stated that at the moment, it was unsure how the concepts might be developed into some rule-like structure.

The AESO was asked if it anticipated filing the demand curve ahead of the provisional rules. It responded that time is the critical constraint, so the demand curve and the provisional rules will be filed very close together, potentially at the same time.

AUC Process for Transitional Rule Approval

AUC staff asked stakeholders for their thoughts on opening the provisional ISO rule hearing early.

AUC staff assured stakeholders that there be a formal letter to stakeholders communicating what input is sought, ideally prior to fall 2018.

AUC staff clarified that the early opening would work to address which issues the AUC should consider as it looks at the provisional rules, and how stakeholders suggest the Commission interprets the legislative criteria. Staff stated that the process for the actual ISO rules hearing would be laid out closer to the actual hearing.

Other Issues

The AUC was asked what role it will have in specifying the governance structure the AESO should have going forward, specifically with regard to stakeholder consultation. AUC staff stated it does not intend on specifying the AESO's process right now. The consultation process will be up to the AESO. AUC staff indicated that the AUC will not assign weight to outcomes of consultations as it is more concerned about the evidence satisfying the listed criteria.

Stakeholders indicated a concern of an inefficient, disruptive process of the AESO filing a rule with the AUC and then being forced to go back and revise and suggested that governance may be useful in this regard. AUC staff stated that it appears more efficient if AESO and stakeholders come up with and manage processes to the extent needed. If that approach ends up causing regulatory inefficiency, then the process may be revisited.

There was some agreement from stakeholders to not prescribe something unworkable, but stakeholders still suggested that it may be more helpful to have the AUC set out a process and then see if it is working rather than waiting until something goes off the rails. AUC staff stated that it can consider more formal review process to solicit stakeholder input on whether or not the process is working.

AUC staff stated that there is a set of criteria in the legislation with which the AUC must be satisfied. This is in lieu of a formal process for the consultations because consensus is not the objective – the AUC wants evidence to satisfy criteria and confirmation that perspectives have been considered.

The AESO stated that it does not want things to go wrong either, but can make adjustments after a trial period with current framework. It is looking to try and structure certain things and pursue resolutions before arriving at the hearing room. The AESO will be open to stakeholder comments on improvements.

The AESO stated that Rule 017 leaves the structure of consultations open. It suggested that if parties can agree on issues before AUC involvement, it would be persuasive.

AUC staff stated that consensus on meeting criteria would certainly be considered a good starting point by the AUC.

Comments due by July 6, 2018. Compiled matrix will be released July 17, 2018.
Meeting concluded at 1:33 pm.