

**NOTES OF STAKEHOLDER COMMENTS
MSA ROUNDTABLE: ENERGY MARKET OFFER BEHAVIOUR,
PALLISER HOTEL, CALGARY
FEBRUARY 18, 2010**

Introduction

On February 18, 2010 the Market Surveillance Administrator held a roundtable discussion on market participant offer behaviour. The purpose of the meeting was for the MSA to hear stakeholders' advice on the action the MSA should take and the guidance it should offer regarding offer behaviour in discharging its mandate under the Alberta market framework.

The meeting consisted of a discussion focused on the particular aspects of offer behaviour the MSA should address (issue definition) and the form and level of detail of a final communication by the MSA on the topic. A detailed agenda was provided to stakeholders prior to the meeting (<http://www.albertamsa.ca/1091.html>). Stakeholders were invited to submit additional comments in writing to the MSA by February 25, 2010 on the understanding these would be shared with all stakeholders.

As shown in Appendix I, approximately 30 people attended the meeting, only a few by telephone. Most attendees were representatives of generators or traders. In Appendix II we include any comments received by February 24, 2010.

Summary Notes

Some Roundtable participants expressed concern that the MSA would consider making pronouncements about offer behaviour at all. The views were wide ranging: some felt that the existing market design, with protections such as ownership and price caps, implied that there should be no constraints on offer behaviour and little or no role for the MSA. Others suggested that any type of prescriptive approach by the MSA would take it into market design which was the purview of the Minister and the Department of Energy and outside the mandate of the MSA. A variation of this view was that the MSA might interfere with one aspect of the market but it was not appropriate to do so without considering the broader market design; for example constraining offer behaviour would cause other problems. Another was that policy stability in Alberta is important because perceived instability acts as a barrier to entry and raises risk and therefore the cost of financing for participation and investment.

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One speaker challenged the spotlight on portfolio offer behaviour and suggested portfolio holdings were fundamental to existing investment in the Alberta market. An attempt to resolve offer behaviour by forcing generators to contract forward would need to be accompanied by a similar requirement for load. In response, another speaker observed that if there was no constraint on offer behaviour financial participants would have difficulty gauging the market and be dissuaded from participating in Alberta.

A counterview from another tack was that deficiencies in the existing market design required the MSA to carefully oversee price movements. This was because the lack of a day ahead or some form of advance market forced participants to move the pool price when they could not recoup needed revenue. Until the fundamental market design changed and the real time market evolved into a balancing market with participants' ability to limit their exposure, the MSA had an important role to play in establishing rules of conduct. The same speaker noted that in Alberta the demand side of the market could not be expected to constrain market power.

One speaker expressed the view that overall efficiency of the market would be increased if market participants managed their risk within the market rather than self insuring by building their own capacity.

There were other views of caution about the MSA embarking on an aggressive approach towards offer behaviour conduct. For example, it was noted that the Section 6 Committee had already tried and failed to provide clearer guidance on offer behaviour, that this had been a long and time consuming process and that now, while still coming out of the economic downturn, was not a good time to engage in these discussions. Another view was that it is productive to have an open discussion before there are specific cases to work through the principles and mechanisms.

Before embarking on further work around offer behaviour the MSA was challenged to:

- explain why offer behaviour needed to be addressed and how, in the MSA's view, it was leading to undesirable outcomes,
- provide evidence to distinguish good from bad,
- ascertain that remedies are achievable, and
- be satisfied that any proposed approach recognizes the possibility and costs of errors (both false positives and false negatives).

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When the discussion turned to the Detailed Agenda questions on issue identification and the form and detail of MSA guidance, the attendees expressed interest in learning the MSA's views and continuing to participate in a consultative process. It was suggested that with a newly appointed Administrator it was an appropriate juncture to hear the MSA's thoughts on the continuing relevance of the past statements (summarized in Appendix 1 of the detailed agenda for the Roundtable). One speaker noted that intertie conduct is just one facet of portfolio offer behaviour and the existing guideline should be re-considered in this light.

The attendees acknowledged that it was unsettling to be contacted by the MSA about particular behaviour without a clear understanding of what was considered inbounds or outbounds. As a starting point it was suggested that it would be useful to more clearly understand how the MSA identifies, and what it does now when it observes, questionable market conduct. Regarding portfolio offer behaviour, which was described by one speaker as a natural feature of the market, communication of the MSA's view of the appropriate bookends (if any) would be helpful. Others also commented on the need for clarity on subsections 2(j) (market manipulation) and 2(k) (circumvention of directives) of the FEOC Regulation. It was noted that the meaning of the phrase "competitive market outcome" (subsection 2(j)) was uncertain.

Finally it was observed that if the MSA addressed supply-side offer strategy, it should also provide guidance on the appropriateness of similar conduct by load. In particular, that the same analytic framework should be applied.

Turning to some principles for the MSA to adopt, one speaker noted that the concept of 'opportunity to compete' was important. It was also suggested that in developing its architecture to address market power the MSA needs to recognize that:

- it is not an hour by hour issue,
- it needs to meet the test of a material and sustained impact, and
- it only exists when there is no opportunity for competitive response and T-2 makes competitive response difficult to achieve in the short run.

Another suggested that leaving guidance at high level principles was not all that helpful and something approaching 'bright lines' would be more desirable. Another speaker observed that agencies such as the Competition Bureau had moved away from bright lines to explaining their 'screening tests' and what

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would constitute a structured 'rule of reason' analysis, i.e. what steps it would take in analyzing an event. Others expressed concern that the Section 6 Committee red/green test was a screening approach and it had been very problematic. One speaker expressed the view the screens were appropriate with capacity markets but had no place in energy only markets.

Another speaker advocated that the MSA continue the approach in its Intertie Conduct Guideline that identified questionable conduct (the negative – what not to do) rather than prescribed how participants were expected to conduct themselves.

One attendee said it would be important for the MSA to distinguish between anticompetitive behaviour and simple profit maximizing behaviour (that should not be constrained by the MSA). In the former category would be activity that dissuades competition, erects barriers to enter, etc. The identification of this type of conduct should be communicated clearly to market participants and something approaching 'bright lines' might be appropriate. He gave the example that offering dispatchable MW below cost was equivalent to dumping and should not be allowed. Another person responded that allowing only offers above cost and not below cost is inconsistent with the goals of competition, i.e., the purpose should not be to prop up prices.

Turning to the MSA's discretion to report on instances of offer behaviour, there was some support for public reporting to provide transparency and 'sunshine' on market activities. One commentator added the proviso that reporting may sometimes also have the unintended consequence of facilitating collusion. It was also noted that 'naming names' could have a chilling effect on market activity and, in any event, should only be considered if it related to behaviour that was clearly offside. It was also observed that if there was nothing ultimately wrong with the conduct, why publish it.

Participants stated a willingness to participate in a consultative process with the MSA in the development of its position, although it was noted by one speaker that the MSA should not feel obliged to have a consensus view before moving forward. As to timing, there seemed a common view that the process should not be as drawn out as the Section 6 Committee review. Rather it should move along as quickly as the MSA can manage, without jeopardizing serious consideration of the issues. One suggestion was that the MSA publish a schedule that would provide discipline and the effective use of stakeholders' time.

Appendix I: Attendees

Name	Company	Attended by Phone
Cliff Monar	AESO	
Jason Beck	AltaGas	
Cherise Nielsen	AltaGas	
Carl Fuchshuber	ATCO Power	
Kim Johnston	ATCO Power	
Horst Klinkenborg	ATCO Power	
Janene Taylor	Capital Power	
Akira Yakamoto	Capital Power	
Kapil Saxena	Citi Group Energy	YES
Doug Crichton	City of Medicine Hat	YES
Bryan Karbonik	Department of Energy	
Tamara Johnson	Direct Energy	
Vernon Hansen	EnCana	
Bobby Ahmadi	Enmax	
Lonnie Enns	Enmax	
Garth Renne	Enmax	
Sheldon Fulton	IPCAA	
Chris McDowall	LDH Energy	
Kyle Van Koughnett	Maxim Power	
Bryan C. Duguid	May Jensen Shawa Solomon	
Jeff Lam	Power Ex	Others by phone
Darren Gogol	TransAlta	
Sterling Koch	TransAlta	
Darren Angerman	TransCanada	
Mark Kocsar	TransCanada	
Ken Kunz	TransCanada	
Levson Dan	TransCanada	
Jim Paton	TransCanada	
Duncan Embry	Twin Cities Power	
Jeff Church	U of C	
Jade Youck	Velocity Energy	YES

*Some attendees that arrived after the start of the meeting may not be reflected in the above list

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**Appendix II – Comments received from stakeholders by February
25, 2010**

[No comments received by February 24, 2010]