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January 11, 2019

Alberta Market Surveillance Administrator
400 5th Avenue SW
Calgary, Alberta
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Attention: Gordon Kaiser, Market Surveillance Administrator

Dear Mr. Kaiser:

Re: Offer Behaviour Guidelines prior to the implementation of a capacity market

TransAlta submits these written stakeholder comments in response to the notice and consultant's report issued by the Market Surveillance Administrator (MSA) on December 10, 2018.

TransAlta fully agrees with the Charles River Associates' (CRA) statement that:

> While recent pool prices have trended upwards, the magnitude of this trend is not out of line with the past. Neither pool price *levels*, nor their *trends* are seen to be unusual. In observing current and recent historical pool prices, we do not see evidence of insufficient competitive discipline.[1]

The analysis presented that shows that recent pool prices have recovered to levels closer to the long-term historical average is compelling evidence that observed prices do not indicate a problem with offer behaviour that needs to be addressed. However, we are concerned with the lack of compliance guidance on offer behaviour should the MSA determine in future that it is concerned with market outcomes. TransAlta prefers a transparent compliance regime that includes ex-ante bright-line tests that could provide more certainty and clarity about circumstances that may raise concern for the MSA.

We are also concerned by statements made by CRA that the Balancing Pool's current offer behaviour serves to offset the offer control share of the six other major market participants and stabilize the energy price at low levels.[2] To paraphrase the Alberta Electric Utilities Act (EUA), the purpose of the Act is not low prices, but competitive outcomes not distorted by unfair advantages of government-owned participants, and investment in generation of electricity that is guided by competitive market forces.[3] Statements such as "the low prices experienced over recent years do not obviate the need for continued vigilance on the part of the MSA" [4] seem incongruous in context with these purposes. Put simply, the Balancing Pool's offer strategy has

[1] Page 6, Offer Behaviour Guidelines Prior to the Implementation of a Capacity Market, Charles River Associates, December 10, 2018.
[2] Pages 11-12 and 18, Idem
[3] Sections 5(b), (c) and (d), Pages 18-19, http://www.qp.alberta.ca/documents/Acts/E05P1.pdf
[4] Page 18, CRA, supra

been seen by a number of market participants as distortionary, but is relied upon as a key counterbalance in the CRA report. The Balancing Pool has recently indicated that it is exploring options to potentially alter its offer strategy in the future, specifically in relation to the feasibility of subcontracting daily offer control to an independent third party.[5] CRA's comments regarding the Balancing Pool's offer strategy and its price-stabilizing effect may be transient assumptions.

Specifically, TransAlta believes clear guidance from the MSA would be of great value to the market in the following areas:

- The establishment of an ex-ante bright-line test based on Long Run Marginal Cost (LRMC). As noted by CRA in its report, the MSA's 2011 OBEG allowed economic withholding "so long as spot prices, averaged over a period of months, were no higher than would be necessary to attract sufficient investment (i.e. long run marginal cost, or 'LRMC')", and that the MSA has taken LRMC as its benchmark in order to induce investment.[6] TransAlta agrees that LRMC is the relevant benchmark and is consistent with a competitive market that provides a reasonable opportunity to earn a return of and on capital.[7]

- The determination of supply-demand conditions under which market prices could be reasonably expected to reflect true scarcity.[8]

- If market participants were to conduct themselves in accordance with an ex-ante bright-line test based on LRMC, that such a benchmark would not be changed in advance of or during the 10 months in 2021 after the PPAs expire but the capacity market has yet to begin.

TransAlta is not convinced that the Advisory Opinion Programme would provide a workable solution as an alternative to guidelines. At this time, the Advisory Opinion Programme is only a concept, and appears to be geared to individual opinions, not to providing overall market guidance. Further it could take time before any guidance is issued under the program. It does not appear to be a suitable mechanism to develop any useful guidance that could be applied in the short transition period to the capacity market.

TransAlta also disagrees with the CRA report that the MSA has a tool kit to address future issues and take steps to restore competitive behavior as matters arise; this tool kit is not being fully utilized if it declines to issue guidance. CRA seems to miss the point of subsection 39(4) of the *Alberta Utilities Commission Act*, which specifically authorizes the MSA to establish public guidelines to support the fair, efficient and openly competitive operation of the electricity market, in addition to all other actions that are under its mandate. In this respect, issuing guidance is proactive and could prevent or mitigate issues ***before*** they arise, establishes a common understanding for the market and all of its participants, and complements the other actions such as seeking interim rule changes or future investigation or enforcement. TransAlta believes it is

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[5] Pages 10 – 11, Balancing Pool Q3-2018 Condensed Interim Financial Statements and Review, for the three and nine months ended September 30, 2018, November 28, 2018

[6] Pages iv and 17, CRA, supra.

[7] An ex-ante bright-line test based on LRMC would apply to all market participants, including the Balancing Pool were it to alter its offer strategy through use of an independent third-party agent, which we assume would operate on commercial terms and with commercial incentives.

[8] The MSA has previously stated that scarcity conditions are observed when the supply cushion falls below 1,000 MW, for example in the Efficiency Analysis section of their Q2-2018 report (pages 11-13). TransAlta would support clear advice from the MSA as to what it considers to be the appropriate evaluation criteria for true scarcity.

valuable for the MSA to provide bright-line guidance to the market, rather than general reliance on the MSA's ex-post investigation and enforcement powers.

TransAlta appreciates the MSA's consideration of our comments and looks forward to participating in the stakeholder meeting on January 17, 2019 and any further process steps to assist the MSA in deciding on next steps. Please feel free to contact me directly at (403) 267-4664 or marcy_cochlan@transalta.com should you have any questions or wish to discuss our comments further.

Yours truly,

TRANSALTA CORPORATION

Marcy Cochlan
Managing Director, Market Regulation & Policy