

January 21, 2019

SENT VIA EMAIL: stakeholderconsultation@albertamsa.ca

Mr. Gordon Kaiser
Market Surveillance Administrator
500 – 400 5th Avenue S.W.
Calgary, Alberta T2P 0L6

Dear Mr. Kaiser:

Re: Advisory Opinion Programme Consultation – Balancing Pool Comments

This letter is in reply to the December 14, 2018 notice provided by the Market Surveillance Administrator ("MSA") requesting written stakeholder comments on the report prepared by the MSA's consultant, Ian Nielsen-Jones, to determine if the establishment of an Advisory Opinion Programme ("AOP") is warranted (the "Report"). The Balancing Pool is supportive of the MSA's consultation process and appreciates the opportunity to provide comments.

The Balancing Pool has previously provided comments to the MSA regarding the concurrent consultation to determine if guidelines to address acceptable offer behaviour ("Offer Behaviour Guidelines") are warranted during the transition period leading up to the implementation of the capacity market. We re-iterate those comments here.

As noted in the Balancing Pool's prior response, the Balancing Pool considers clarity regarding offer behaviour to be a matter of critical importance and submitted that such clarity could be achieved either through Offer Behaviour Guidelines or the AOP but should involve at least one of these mechanisms. The Balancing Pool therefore supports an AOP whereby market participants could seek an opinion from the MSA with respect to whether proposed business conduct and practices are compliant. Such advance guidance will be very helpful in reducing what we see as uncertainty that currently exists in the market, particularly as it relates to what constitutes acceptable offer behavior.

Timing is of utmost importance to the Balancing Pool. The Balancing Pool would hope to see the AOP in place well before the expiry of the Power Purchase Arrangements ("PPAs") at the end of 2020. We are also of the view that the AOP process will only be effective if the MSA's opinions are binding and rendered within a reasonably short time from when the request is initially received by the MSA. Ideally we would like to see a set timeline for response. We recognize that from the MSA's perspective that the AOP is likely to be resource intensive, especially at the outset, and we would recommend that the MSA ensure that the appropriate level of resources is allocated to enable a prompt response. In our opinion, it is very important that the AOP ensure efficiency of process, especially in the absence of service standards.

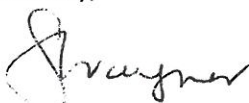
The Balancing Pool understands that the MSA is considering the use of a committee or panel structure to provide opinions which would help to alleviate concerns that opinions might reflect ephemeral individual ideologies rather than more permanent agency-centric positions. The Balancing Pool would advocate for the proposed committee or panel structure to promote consistency and fairness in the opinions provided through this program.

It is noted in the Report that the MSA may wish to publish the advisory opinions it issues to market participants. The Balancing Pool would like to emphasize the importance of ensuring that no commercially sensitive information is included in any such publication and agrees with the recommendation of the MSA's consultant that it be compulsory for the MSA to contact the market participant to obtain consent prior to publication. The Balancing submits that this is a confidentiality obligation that exists in prevailing legislation. Where consent is not provided, it would be imperative for the MSA to ensure that even if a summary of the opinion is provided that no commercially sensitive information could be gleaned from it.

The Balancing Pool recognizes the importance of compliance with all regulatory and legal obligations however when that framework is not clearly articulated (as in the form of specific guidelines) it can at times be difficult for market participants to understand what constitutes appropriate conduct. Historically, the result has been a costly and very time-consuming regulatory process. The Balancing Pool would welcome a programme whereby the MSA could be consulted with respect to proposed conduct or practices and receive assurances from the MSA as to whether certain actions are compliant with regulatory and legal obligations. Such a process would help to alleviate undue regulatory burden to benefit the MSA and all market participants.

Should you have any further questions or concerns relating to this matter, please contact me directly at 403.539.5360 or sharleen.traynor@balancingpool.ca.

Sincerely,



Sharleen Traynor
Manager, Corporate Services

cc Benjamin Chappell, Acting President and CEO