

January 21, 2019

Alberta Market Surveillance Administrator
400 5th Avenue SW
Calgary, Alberta
T2P 0L6

Attention: Gordon Kaiser, Market Surveillance Administrator

Dear Mr. Kaiser:

Re: Advisory Opinion Programme

TransAlta submits these written stakeholder comments in response to the notice issued by the Market Surveillance Administrator (MSA) on December 14, 2018, and the independent consultant's report of Mr. Ian Nielsen-Jones issued on the same date.

TransAlta supports the establishment of an Advisory Opinion Programme that would reduce the need for investigations and enforcement actions by enabling persons and corporations to seek binding advisory opinions from the MSA on proposed practices or conduct. TransAlta considers that an Advisory Opinion Programme could foster cooperation between the MSA and industry participants and could assist in providing a less costly and more efficient process for market participants to understand compliance obligations.

We believe that that the following aspects of the proposed Advisory Opinion Programme are critical to maximize its usefulness and ensure its success:

- TransAlta fully supports the binding nature of the proposed MSA's advisory opinions. TransAlta believes it most valuable to have the MSA's views clearly stated on key facts and its interpretation of the relevant market rules, regulation and legislation. Even in circumstances where the MSA chooses not to provide an opinion, the MSA should explain its reasons for not providing the opinion including any facts that it found too uncertain or hypothetical to provide an opinion about.
- TransAlta supports Mr. Nielsen-Jones's suggestion that the MSA consider identifying the time period for which the opinion is valid. Further, TransAlta would greatly appreciate proactive advice from the MSA that an opinion is no longer valid or applicable, in whole or in part, if rule changes or decisions of a regulator have altered fundamental considerations.
- The requirements for initiating a written request should be clear and should specify a reasonable and relevant level of detail be provided about a proposed practice. TransAlta assumes that there would be a dialogue between an applicant for an opinion and the MSA as to necessary detail, prior to the delivery by the MSA of an opinion. TransAlta also accepts

that an applicant for an opinion must provide all material facts to the MSA and that the conduct or practice must be carried out as described or proposed.

- The MSA should retain discretion as to whether to publish summaries of their written advisory opinions, with an overriding purpose to provide clarity to the entire market for issues that are noteworthy or important. Any summary published should maintain the confidentiality of the market participant who requested the opinion as well as the confidentiality of commercial information associated with the opinion. In particular, TransAlta would support summaries of opinions from the MSA to the market on issues that are new or on which the MSA has altered its view for any reason.
- The programme should include a process for seeking feedback from applicants to understand how the program is viewed and whether improvements could be considered.

Additionally, TransAlta agrees with Mr. Neilsen-Jones's view that the MSA should not charge a fee for opinions initially, in order to encourage the use of the Advisory Opinion Programme and until more information about the cost and value of the program is better understood.

TransAlta appreciates the MSA's consideration of our comments and looks forward to participating in the stakeholder meeting in February 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