

NOTICE TO PARTICIPANTS AND STAKEHOLDERS

October 23, 2019

Re: Advisory Opinion Program Process

The MSA has created an Advisory Opinion Program (AOP) that will provide Advisory Opinions with respect to whether **proposed** business conduct and practices of Alberta electricity market participants comply with their obligations under the *Electric Utilities Act*, including regulations created thereunder. This notice sets out the process by which Advisory Opinions may be requested from the MSA.

Request for an Advisory Opinion from the MSA

Alberta electricity market participants who wish to obtain a non-binding Advisory Opinion from the MSA (“the Applicant”) must submit a request **in writing** to enforcement@albertamsa.ca that contains all of the following information:

- Details of the Applicant’s proposed business practice;
- Relevant data and analysis available to the Applicant;
- Relevant third-party data and analysis; and
- The Applicant’s contact information.

Issuance of Advisory Opinions by the MSA

On receipt of a request for an Advisory Opinion, the MSA will consider whether it has sufficient information to make a decision on the request. If not, the MSA may request additional information from or meetings with the Applicant.

The MSA retains the discretion to decline to issue an Advisory Opinion in certain circumstances. These circumstances include, but are not limited to:

- The business conduct at issue occurred in the past;
- The business conduct is subject to an ongoing investigation by the MSA;
- The Applicant has not provided sufficient and / or suitable information;
- The underlying facts being uncertain or hypothetical;
- Necessary third-party information is not available to the MSA; and
- The business conduct is a matter for which the AESO provides guidance pursuant to its requests for information process outlined in Information Document 2017-001.¹

If issued, an Advisory Opinion will be issued in writing and will be signed by the MSA’s Chief Executive Officer.

In the interests of facilitating greater understanding and transparency of the MSA's views to the broader market, the MSA will publish a version of any Advisory Opinion it issues that maintains the confidentiality of the Applicant and any commercially sensitive information.

As the MSA's opinion may change if the applicable legislation or ISO Rules change, it is suggested that Applicants receiving a written Advisory Opinion seek independent legal advice or re-contact the MSA to ascertain whether such changes have an impact on a previously-issued Advisory Opinion.

There will be no fee payable by an Applicant who requests an Advisory Opinion from the MSA.

Background

Following requests received from market participants, in October 2018, the MSA initiated a stakeholder consultation to consider whether a voluntary advisory opinion program would be helpful to market participants.²

The MSA retained Independent Economics Consultant Ian Nielsen-Jones to prepare a Report that addresses three questions:

- Could an AOP assist market participants?
- If so, what form should that program take?
- What has been the experience of other regulators with these types of programs?

The Report was made public on December 14, 2018³ and a public stakeholder session was held on February 27, 2019.⁴ Market participants provided written comments to the MSA in response to the Report itself⁵ and orally⁶ at the stakeholder meeting.

¹ [Information Document 2017-001 – Requests for Information, Waivers or Variances Regarding Authoritative Documents](#) effective June 20, 2017.

² MSA notice re Advisory Opinion Program. October 22, 2018.

³ Ian Nielsen-Jones, "Report to the Market Surveillance Administrator of Alberta regarding the merits of introducing an Advisory Opinions Program." December 14, 2018.

⁴ MSA notice re Advisory Opinion Program Public Meeting. January 18, 2019.

⁵ MSA notice re Stakeholder Comments re: Advisory Opinion Programme. January 23, 2019.

⁶ MSA notice re Oral feedback re: Consultant's report on Advisory Opinion Programme. May 7, 2019.