



November 23, 2012

Feedback – Public Information and Trading

The MSA received an inquiry regarding trading based on information in respect of asset capability changes (outages) that is available from public or trade sources such as news, public press releases, stakeholder consultations or industry publications – described collectively for the purposes of this feedback as “market information”. The market information might relate to existing or prospective generation, load or transmission, including future plant investments, upgrades to existing plants or new builds. The inquiry noted that such market information may be speculative or well founded, but is available through non-AESO sources.

Section 4 of the *Fair, Efficient and Open Competition Regulation* (FEOC Regulation) restricts trading on outage records until that information has been made available to the public by the AESO. The restriction on trading in section 4 does not apply to outage records that are not required to be provided to the AESO under applicable ISO rules. Of particular note, all market participants have an ongoing duty to inform the AESO on a timely basis of their generation outage plans for the upcoming period. This reporting is then aggregated by the AESO prior to being made available to the public.

Some types of market information described by the inquiry would not be required to be provided to the AESO and section 4 of the FEOC Regulation would not restrict its use. For example, market information regarding generation not yet built would not entail ‘outage’ reporting obligations. Where section 4 is relevant, provided that a market participant meets its related obligations/restrictions there is no issue with use of market information.

Market information should not be seen as a means by which to avoid section 4 requirements that otherwise apply. Reporting obligations to the AESO must still be met. Further, where market information relates to assets over which the market participant also has non-public outage information, for example through ownership or operation of generation, care should be taken to ensure that trading does not in fact amount to misuse of the non-public outage records. This scenario may also attract scrutiny under subsection 2(k) of the FEOC Regulation.

The MSA would also take this opportunity to highlight subsections 2(a), 2(d) and 2(e) of the FEOC Regulation, which can apply where information is being disseminated to the AESO, as well as through public or trade sources. Concerns about deliberate or careless release of inaccurate information will be vigorously addressed by the MSA.

Note to reader: This feedback does not constitute a formal guideline or opinion of the MSA. However, within the parameters of the applicable facts and absent any superseding view, we consider ourselves bound by feedback given. Views expressed by the MSA do not supplant the role and authority of the courts, the Alberta Utilities Commission or other adjudicative body with jurisdiction over a given matter. Questions or comments regarding this feedback can be sent to the MSA through the Contact Us link on our website.