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MSA Report

Transmission Must Run Investigation

28 February, 2005

Market Surveillance Administrator

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1. Introduction

In October 2004, the Market Surveillance Administrator ("MSA") initiated an investigation into the competitiveness of the market for Transmission Must Run ("TMR") services in Alberta. The investigation was prompted by the MSA's observation that market participants have found it necessary to refer to regulatory authorities a number of times in a relatively short period seeking changes to TMR arrangements. The most recent dispute has seen ATCO Power and the Alberta Electric System Operator ("AESO") in protracted disagreement with respect to payment for the provision of TMR service in the Rainbow Lake area, as well as an application to the Alberta Energy and Utilities Board ("AEUB") to amend the pricing provisions of Article 24 of the AESO's Terms and Conditions, which governs payment for conscripted TMR service.

Given the historically problematic nature of TMR contracting in the Rainbow Lake area, and issues with TMR type contracting in other regions of the province[1], the focus of the investigation is to examine the following questions:

1. Does a competitive market for TMR exist?
2. If the answer to #1 is no, is it possible to design and implement a competitive market for TMR?
3. If the answer to #2 is no, what are the alternatives to a competitive market?

The intent of the investigation is to provide answers to these questions for both the Rainbow Lake area and the wider market for TMR, and make recommendations, where appropriate, to enhance the TMR procurement process.

Given the nature of the above questions, this investigation is largely concerned with both the current and past framework and process for procuring TMR, with a view to determining the overall competitiveness and, where applicable, potential for competitiveness. As such, the investigation is not seeking to identify and prosecute wrong doing, per se, but rather to assess whether the market structure and/or procurement processes are such that competitive outcomes have or potentially can be achieved. The investigation and conclusions are premised on the Transmission Development Policy and Transmission Regulation. We believe the recommendations arising out of this investigation are both compatible with the new Policy and are, in fact, complementary in purpose and outcome.

A key part of this investigation has included engaging Charles River Associates (Asia Pacific) Pty Ltd ("CRA") to conduct an independent assessment of the competitiveness of TMR in Alberta. The CRA study is attached to this Investigation Report, and forms part of the basis for the conclusions and recommendations contained herein.

[1] Issues in other areas include cancellation of IBOC and LBC-SO contract(s) in Southern Alberta and general unease regarding the provisions of Article 24.

1.1 Yardsticks of Fair, Efficient and Openly Competitive

The MSA has undertaken this investigation with the view that TMR procurement processes and market outcomes must meet the standards of *fair, efficient and openly competitive*. The Electric Utilities Act ("EU Act, 2003") charges the AESO with the duty to promote a fair, efficient and openly competitive market for electricity. In the context of TMR services, both the MSA and CRA have taken fairness to relate to the consistent and uniform application of the rules to participants, and open competition to refer to the transparency and opportunity to participate in the provision of the service. We also consider that promotion of a fair, efficient and openly competitive process requires enabling the development of a dynamically efficient market; that is, a market which provides incentives and accountabilities that facilitate investment and innovation, and that enhance economic welfare in the future for both consumers and producers.

1.2 Historical Context

There is currently a low level of confidence in the market for TMR. This is the result of a broad history and is influenced by events both directly and indirectly related to the current TMR dispute. As such, the historical context leading up to the current situation in Rainbow Lake and in the current Article 24 hearing before the AEUB is not a straightforward one. These events include:

- Previous contentious disputes with respect to the Rainbow Lake area culminating in AEUB Decision 2002-103 and related proceedings.
- Evolving terms and interpretations with respect to Article 24 over time.
- Significant periods of conscripted TMR service provision for two providers in the Rainbow Lake area.
- Termination of two long-term AEUB approved IBOC contracts and one LBC-SO contract, where a combination of market conditions, non-optimal contract provisions and urgent reliability expressions that did not fully materialize into unit dispatch led to contract terminations very early in the life-cycle of the contracts. This has led to an apparent loss of confidence of market participants around the expression of technical 'needs' by the current AESO, which inherited this role from the former TA.
- A changing regulatory environment punctuated by a significant policy shift in basis for transmission planning and expansion. The policy has evolved from cost minimization based on evaluation of both wires and non-wires solutions to congestion minimization through emphasizing wires based transmission expansion. Uncertainty in implementation has created challenges for existing and prospective investors.
- Natural difficulty arising from negotiating positions that, especially in the Rainbow Lake area, often resemble bi-lateral monopoly negotiations.
- Organizational/structural change arising out of the combination of the roles of ESBI Alberta (the former for-profit Transmission Administrator) with the Power Pool of Alberta, forming the current not-for-profit AESO.

The history forms the collective frame of reference for the industry, and plays into current levels of confidence in the both the TMR market and broader electricity market.

However, the history 'is what it is', and the only way to overcome it is to learn from those 'lessons' by establishing rigorous and transparent processes that produce both confidence in the market and its operator and fair, efficient and openly competitive outcomes.

2. Competing Roles

With respect to the Rainbow Lake dispute, the MSA is of the view that the balance of roles between ATCO Power and the AESO are markedly different. It is our opinion that ATCO Power has had a relatively straightforward 'hand to play'. It is a 'for profit' entity that has gone out to maximize its returns and has acted rationally in the face of the incentives, rules and its relative bargaining position. Alternatively, the AESO's hand puts it in a much more difficult situation. The market structure, which is primarily not of its own making, presents the AESO with a situation where it needs to balance numerous statutory roles and objectives, which are often both ambiguous and competing, as well as negotiate as the counterparty to ATCO Power.

In terms of the statutory empowerment of the AESO, the MSA is of the view that two overriding roles arise out of the relevant legislation and regulations. They are to provide for the safe and reliable and economic operation of the Alberta interconnected electric system (AIES) and to promote 'fair, efficient and openly competitive' markets for the exchange of electric energy and products.

The MSA does not view the 'safe and reliable' operation of the AIES and the promotion of 'fair, open and efficient' markets as being mutually exclusive or as necessarily creating undue tradeoffs. In fact, we see fair, open and efficient markets and the promotion of a 'safe and reliable' electricity grid as complementary and mutually inclusive. In the context of a restructured electricity industry, we believe one cannot exist without the other in so far that if the goals of safe and reliable are to be serviced, then fair, efficient and openly competitive markets must be promoted and allowed to function.

However, the MSA also believes that pragmatically, competitive markets may not exist in certain situations, such as has been experienced in the Rainbow Lake area. In these limited situations, we then have a 'fair, prudent and transparent' regulatory process as the substitute for fair, efficient and open competition.

To the extent that reliability and competitiveness objectives are both complementary and mutually inclusive, these roles must be carefully managed and balanced by the AESO. The multiple roles of the AESO as network planner, rule designer, system operator and TMR contracting agent forces the AESO into a difficult, often subjective, balancing act. It is within this balancing act that the MSA believes the competitiveness objectives have not been sufficiently promoted.

The CRA report notes an apparent failure of the AESO to promote fair, efficient and openly competitive outcomes in the market for TMR services, a finding that is endorsed by the MSA. This conclusion arises from an assessment of internal AESO processes and

its interpretations of its role in a number of areas. The MSA supports a number of conclusions made in the CRA report with respect to internal AESO processes and interpretations of its roles;

- The AESO's internal processes, at least as presented to external parties, have not been as assertively competitive as is possible. In particular the analysis of technical need undertaken by the AESO does not appear to have explicitly incorporated an objective of finding alternatives that would promote competition. (CRA, pp. 31)

- In undertaking its technical and process assessments, the AESO has effectively already taken into account commercial factors (such as likely spot market dispatch) that are strictly matters for the judgement of the (private sector) counterparty. (CRA, pp. 23)

- There is a lack of formal processes for selection of TMR procurement, and a preference for bilateral negotiations with identified counterparties. As a general matter it would seem that by exclusively focusing on a specific provider and excluding others based on judgments that seemingly placed low weight on competition and others' responses, the AESO would tend to place itself in a disadvantageous bargaining position from the start. (CRA, pp. 32-33)

- It is not clear whether in general the AESO has distinguished sufficiently between its own view of the preferred provider, and how a competitive procurement process should best be managed in practice, and in the interests of openness, transparency and revelation of information, be seen to be managed. This has led to an ad hoc process for considering the tradeoffs involved. (CRA, pp. 32)

- The AESO's assessment of what constitutes reasonable and prudent payment for TMR services appears to be based on short–term cost minimization objectives, rather than on an even-handed or rigorous analysis and its wider promotional role with respect to fair, efficient and openly competitive markets. Moreover, it appears that the particular interpretation that the AESO has placed on commercial aspects of these objectives is such that the concept of promoting efficiency, competitiveness and fairness of commercial outcomes has taken second place to the AESO's interpretation of what would be in the public interest – specifically the short-term financial interest of ratepayers. This is, in part, apparent from the absence of a discussion about the overarching objectives for fair, efficient and openly competitive arrangements in the AESO's submission to the AEUB in relation to the proposed Article 24 amendment. (CRA, pp. 49)

- In response to what may have been legitimate monopoly supplier concerns in the Rainbow Lake area, the AESO adopted a range of increasingly heavy-handed quasi-regulatory measures to conscript TMR services and develop associated pricing provisions aimed at protecting customers. This raises a number of issues including:

1) The fact that non-competitive market outcomes should first and foremost be adjudicated by the appropriate agency (the MSA), rather than through ad hoc commercial and operational processes; and,

2) The approach the AESO adopted raises fundamental questions about the delineation of responsibilities and a potential conflict of interest. That is, the AESO has increasingly found itself in a position where it would attempt to simultaneously act as market operator and commercial negotiator, and where its commercial negotiating positions may have impaired its role as an impartial market operator. Transparency of processes appears to have been compromised in the process, and we have noted with concern the poor regard in which market participants appear to hold this function of the AESO as a consequence of its action. This is unlikely to be conducive to a well-functioning electricity wholesale market. (CRA, pp. 50-51)

- While we tend to concur with the AESO's assessment that certain suppliers of TMR can be considered to be virtual monopolists, measures such as changes to the dispatch order in the midst of a dispute and while negotiations are still afoot is at best inflammatory in the context of a competitive process, regardless of whether the objective was cost minimization under the AESO's interpretation of a cost minimization objective. (CRA, pp. 51)

- There would seem to be a potential conflict of interest, if the AESO can define the services it needs to procure and simultaneously dictate the terms on which it will procure them. (CRA, pp. 50)

3. Does a Competitive Market for TMR Exist?

The investigation undertaken by the MSA, and supported by CRA's analysis indicates that although competitive TMR markets can exist if the market is broad enough to consider multiple technologies, locations, timeframes and suppliers; in highly constrained areas, such as Rainbow Lake, a truly competitive market has not and likely will not develop. The constraints in the Rainbow Lake area include:

- TMR support is required for a radial line which rules out broadening competitive procurement processes to a wider geographical area.
- AESO technical studies indicate need for MW energy, therefore ruling out other types of network support technologies such as Static Var Compensators (SVCs) and reactive power.
- Studies indicate need for base-load service which eliminates demand side alternatives.

The MSA's conclusions, as supported by CRA's report, with respect to whether competitive TMR markets exist can be summarized as follows:

- In respect of load pockets such as the Rainbow Lake area conditions are such that it is unlikely that a fully competitive process will be appropriate.
- In respect of the Northwest of the Province generally (or other broadly defined regions for TMR), conditions are potentially competitive, in the sense that the AESO can issue an RFP and/or potentially enter into negotiations with a number of parties in some cases.
- The competitiveness of TMR services in general is likely to further reduce as the time horizon for the supply of these services shortens, and any private sector investment potentially reliant on TMR becomes increasingly uneconomic.

3.1 If competitive markets exist, how can they be enhanced, and if they don't exist, what are the alternatives?

3.1.1 Framework for TMR Procurement

Although in some cases, competitive TMR markets can be problematic, the MSA holds the view that "competition" should always be the starting point for any market arrangements. From the beginning, we believe TMR service should be defined as broadly as possible and as early as possible.[2] Needs evaluations should be formally and explicitly designed to consider diversified products. Secondly, we believe bi-lateral negotiations should not be the first recourse, but it should be recognized that this will be necessary in some cases. Competitive processes, including RFPs and where possible, auction type mechanisms are most likely to reveal potential competitiveness and/or elicit competitive responses.

The industry requires a consistent and transparent process to determine to what degree various TMR situations could be handled via competitive mechanisms and which situations may require an arbitrated or regulatory mechanism. The process outlined below is intended to transparently and consistently identify situations where competitive processes are viable or not, and if they are not, then outlines a process for an arbitrated or regulated outcome. This process was proposed by CRA and is endorsed by the MSA.

Stage 1. Competitiveness Evaluation and Process

1. If contemplated by the transmission regulation, as part of the long term 10-year plan, potential applications of TMR should be identified. A non-binding Expression of Interest ("EOI") should be published, as soon as practicable, to elicit the level of likely response from a competitive process for TMR to guide and justify choice of formal acquisition process. Statutory limits or pricing principles should be advised in the EOI. The EOI could explore different contract durations to optimise value on both sides.

[2] The Transmission Regulation and Policy provides valuable direction with respect to institutionalizing the planning horizon.

2. If, as a result of the EOI, it appears a competitive outcome is feasible, the AESO should then engage in a competitive process.

    a. The length of the contract should reflect the characteristics of the TMR being sought.

    b. Competitive processes should be designed to elicit possibilities and potentialities.

3. If the EOI indicates that a broader process would not be appropriate, the AESO should commence bi-lateral negotiations with each of the parties that have expressed interest in the EOI.

    a. At any time, if a potential supplier and the ISO can reach an agreement within a *specified* amount of time, the agreement can be concluded as a contract.

    b. At any time that the parties agree, the parties may submit to binding, but bounded arbitration. The arbitration should be bounded by any statutory, regulatory or prudency limitations. These limitations should be formally set by the AESO board in exercising its statutory obligations, to enhance and demonstrate transparency.

    c. For a limited period after the *specified* time, a potential provider of TMR may exercise an option to require that the AESO enter into the same binding and bounded arbitration. This is a deliberately one-sided option as this step sits at the boundary between competitive and regulated arrangements. The bounded arbitration limits the price to no more than the amount that the AESO had been prepared to accept within its duly established statutory limits and the potential provider would not exercise the option unless it was prepared to settle within the bounds. The AESO, on the other hand, retains a right to initiate a full regulatory determination, in the final step, in the event that insufficient TMR can be contracted commercially.

Stage 2. Regulatory Process

If there are insufficient suppliers prepared to reach agreement or commit to arbitration, the AESO should move to a second stage. This stage would involve:

1. The AESO should advise the AEUB that it has been unable to secure sufficient resources to ensure reliability of supply and hence that negotiations have failed. The AESO should not participate in decision making to resolve the position from this point (but may provide assistance for the AEUB). Resolution should pass to the AEUB.

2. The AEUB should be empowered to:

    a. Direct the AESO to reissue the tender with amended terms and conditions (for example an amended term that may improve the commercial viability).

    b. Direct a nominated party to enter a contract on amended terms and conditions set through AEUB arbitration. This may be limited by the legal authority of the AEUB.

    c. The AEUB should authorize the AESO to construct transmission facilities or alter the timing of future proposals that it had previously discounted in favour of TMR (this would apply to situations where it was physically possible to construct facilities in the time available).

Mandatory contracting must be presented as a last resort and will likely be very contentious. To facilitate this, changes to the STS Tariff Terms and Conditions which would allow, under certain conditions, that parties be mandated into contract may be required. In our view, transferring oversight for conscription/mandatory contracting to the AEUB has two advantages over the current arrangement:

> 1) It shifts "non-market" intervention out of the dispatch timeframe and into the planning time frame; and,
>
> 2) It reduces the perceived conflict that arises if one of the counter-parties to a negotiating process has the ability to conscript, or be forced to be conscripted, rather than to contract.

The AESO would retain the right to conscript generators in the event of an unforeseen emergency, as an important reliability backstop.

3.2 Economic Pricing Principles

Although it is clearly the AEUB's role to establish the final price for conscripted TMR compensation, the MSA has formed views on pricing principles, supported by the CRA study, which may assist parties in evaluating TMR compensation.

An economic discussion about the appropriate pricing of TMR services would naturally take as a starting point the cost of providing these services. Unfortunately, identifying the 'costs' of TMR is not easy, because network support services such as reliability are fundamentally produced 'jointly' with energy that is traded in the market. (CRA, pp. 45)

To answer the question how such prices should be set, it is useful to consider what would hypothetically characterise an equilibrium that is economically efficient. Theoretically, two economic principles for allocating the costs of joint products should apply:

- The cost allocated to any product or activity should never be *less* than its efficient incremental costs, or the costs which would be saved by discontinuing that product; and,
- The cost allocated to any product or activity should never be *more* than its efficient stand-alone costs, that is, the costs that would be incurred if only that activity or product were undertaken.

These principles define upper and lower pricing bounds: if the upper bound is violated the good or service can be supplied more cheaply whereas if the lower bound is violated the revenue (social valuation) from an extra unit of output is not meeting its cost (social cost) and is being (cross) subsidised. In the case of TMR services, this leads to a lower and an upper bound for prices as follows:

- *Lower bound*: Revenues from electricity generation are effectively applied to cross-subsidise reliability services when the average incremental revenue from reliability is insufficient to cover its average incremental costs;[3] and
- *Upper bound*: In a market, competitive discipline is imposed on incumbent firms by the threat of entry. Thus the highest price for reliability that an incumbent could select is the efficient stand-alone cost of providing the service. In the current Alberta context, the efficient stand-alone cost is the lesser of the cost of appropriate transmission alternatives or generation investment designed specifically and only to provide reliability services.

These theoretical pricing boundaries then need to account for any additional pricing constraints prescribed by the Transmission Regulation.

The notion that TMR providers should recover all fixed costs in the energy market is only economically efficient if no fixed costs are required for the provision of reliability services. A provider of reliability services that could not recover these costs would exit a contestable market. Furthermore, there is no economic reason why costs that are common to energy and reliability should be entirely allocated to the energy market; indeed, in high-cost load pockets with a uniform electricity price, this practice may well be uneconomic. (CRA, pp. 47)

The relative value of jointly produced products varies according to the wider market environment. In some cases, the topology of the transmission network may be such that the reliability component of a generator's output is relatively unimportant in comparison with the value of the energy generated. In contrast, in the case of the Rainbow Lake units, the reliability component of their output appears to be of material value to the AESO in meeting its statutory obligations to operate the network in a secure and reliable manner. (CRA, pp. 47)

[3] Average incremental costs include "product-specific" fixed costs – that is, fixed costs incurred only on behalf of the product in question.

3.3 Proxy Plant Approach

The possibility of using a proxy plant concept as a cost benchmark may have some value in ex-post dispute resolution. However, the MSA concurs with CRA that there may be some limitations for its use as an ex ante tool for prospectively determining the value TMR service.

Specifically, as a prospective mechanism the Proxy plant approach is inconsistent with our belief that the field of competition can be broadened if the need for TMR is defined more in terms of the technical capability rather than the characteristics of the likely plant that will provide the service. Furthermore, the application of this concept still requires decisions to be taken about such critical factors as the potentiality of stranding; these are decisions taken by parties not exposed to the concomitant risks. (CRA, pp. 54)

4. Affecting Change

The question remains about how the industry can affect change in the TMR market, both in terms of the Rainbow Lake area and in other market situations that are compatible with competitive procurement. Any change needs to improve confidence, increase participation, enhance fairness and drive efficiency, especially dynamic efficiency.

Rethinking how we approach TMR procurement is especially important given:

1) The market is entering a transition phase with the introduction of the new Transmission Development Policy ("Policy") and accompanying Transmission Regulation ("Regulation"). Although the policy objective is a minimization of TMR reliance in the future, the reality is it may be many years before the system can be upgraded to the level required by the Policy and Regulation. Furthermore, although the eventual use of base-loaded TMR may be reduced or potentially eliminated, there may always exist situations where peaking or interim TMR is required, as contemplated by the Policy. Thus, although the need for TMR will likely decline, from a practical perspective, TMR type issues will likely always exist. Therefore we need to develop processes to deal with both TMR in the transitional period, and TMR for interim situations after network upgrades have been achieved.

2) The market is integrated to the extent that confidence issues created by TMR tend to spill over into other aspects of the market and, as described above, carry a 'history' with them that erodes overall confidence in the market mechanism and market operation. If these issues are not fairly and definitively solved, and are allowed to simply slip into the annals of the collective history, it creates the perception of bad faith with respect to the implementing and regulatory agencies. If solutions to the current TMR and Article 24 issues are collectively deemed unsatisfactory, this will further erode the confidence of market participants, and, from a dynamic efficiency perspective, may further reduce investment incentives, creating longer term system adequacy issues. This could re-create the need for

TMR based on insufficient generation adequacy rather than insufficient transmission infrastructure. This outcome would be unacceptable from all perspectives.

5. Conclusions and Recommendations

The MSA is of the view that overall processes and outcomes for TMR, viewed over a number of years, have not been consistent with the promotion of a fair, efficient and openly competitive process. As such, and given the urgent need to conclude the current round of TMR dispute (both for the Rainbow Lake area and Article 24 in general) in a fair, open and (dynamically) efficient manner that will provide regulatory and market stability and confidence going forward, the MSA is advancing the recommendations listed below. The TMR procurement process that is being advocated by the MSA requires a multi-agency approach. Therefore our recommendations are agency specific actions that the MSA believes are required to insure a consistent and transparent process that produces fair, open and efficient outcomes.

5.1 Alberta Energy and Utilities Board (AEUB)

The MSA's recommendations to the AEUB are as follows:

1. The AEUB should consider limiting powers of conscription in the interests of reliability to an (important) 'backstop' to the market in extreme unpredictable circumstances, essentially those of unforeseen emergencies. This recommendation may require policy consideration from the Department of Energy as well.

2. Enforced medium-term contracting by the AEUB should be allowed for in the event of failure of commercial contracting arrangements where there is no physical alternative. This would be a last resort and be recognised as a failing of the TMR procurement process and be accompanied by a review of the design in this regard.

3. The AEUB must have an oversight role in ensuring completeness of AESO TMR needs assessments and procurement processes.

4. The AEUB must have power to rule when wires or non-wires solutions are applicable (arising out of the reality that the AESO has the ability to defer/schedule costs at their discretion).

5. The AEUB must ensure fair returns given the evolving market structure such that:

- Prices paid for TMR services should at a minimum reflect a reasonable estimate of the incremental costs associated with providing TMR services, including fixed costs components and a reasonable rate of return, where fixed costs are amortised on a realistic basis given the market evolution; and

- Prices paid to existing TMR providers should be determined on the same principles as prices paid to TMR providers who have not yet committed to irreversible investment decisions.

5.2 Alberta Electric System Operator (AESO)

1. Meeting the schedule of the progressive steps in the TMR procurement process is critical. The AESO must prospectively identify situations requiring TMR to provide enough time that an Expression of Interest (EOI), competitive processes, and, if need be, arbitration or regulatory outcomes can be achieved without resorting to emergency conscription.

2. AESO must take responsibly for establishing clear, transparent and practical internal procedures that separate the planning, operations and commercial functions. Communications between the groups must be auditable. Specifically:

a. *Competitive Processes*. The AESO should be required to conduct and demonstrate use of fair and open competitive processes wherever possible. The ISO should also be able to be challenged on the manner in which it implements its obligations.

b. *Transparency of the AESO's internal processes*: The AESO's internal processes should deliver a higher level of transparency and achieve a clear separation of responsibilities – specifically in terms of the interaction between its technical and commercial departments. The role of the AESO's technical staff should be limited to defining the need for TMR or other network support services, and the range of potential technologies that may be applied to deliver this.

c. *Transparency of needs analysis*: The AESO should improve the transparency of its needs analysis with respect to TMR and include an objective of widening the pool of potential TMR providers, as defined by location, technology and timing of any requirement. If a needs analysis indicates that only a limited range of technologies can meet the underlying need then it should be a requirement to demonstrate why this is the case. Where the AESO has identified tradeoffs in terms of the ability of different technologies to deliver a required service, this should as far as possible be quantified, and resolved in the course of any tendering processes. For instance, a less effective network support service may command a lesser price, but should not be prejudged, and in particular should not automatically be excluded from any procurement process.

d. *Greater reliance of RFPs*: The AESO should review the merits of its stated preference for bilateral negotiations. While a formal RFP is likely to be more costly and may be more time consuming, it may also deliver greater market transparency and increased pressure for a more rigorous analysis.

e. *Defining when competition is viable*. The AESO should work with MSA through the EOI process to define when competition is viable or not. The process for determination and decision should be public. The AESO must then set up a process whereby it defends their procurement process publicly.

f. *Market Intervention.* If the AESO steps into the market through either conscription or by not running an RFP, they should be required to provide a report to the MSA justifying their decision to side-step market mechanisms.

3. The AESO should be required to take all reasonable measures to avoid the use of conscription. This is an important mechanism to separate the planning, commercial and reliability functions of the AESO. Specifically, the case of non-renewal of TMR contracts in the Rainbow Lake area with known replacement by operational conscription would represent a breach of our proposed responsibilities for the planning function.

5.3 Department of Energy (DOE)

1. The DOE must provide guidance to the AESO which clearly prioritizes its roles, objectives and obligations through policy. Under its current mandate, the AESO has a number of competing objectives. The AESO's interpretation of these objectives has arguably been a catalyst in the current dispute, and given a new policy environment, requires clarification. Prioritization of roles is especially important in the areas of:

a. Planning, operations and reliability.
b. Promotion of fair, efficient and open competition.
c. Short run and long run cost minimization and prudency.

3. With respect to the Policy, Planning, and Commerce cycle, the flow needs stewardship and/or an audit mechanism. The focus of an audit mechanism should be to ensure that:

a. The policy discharge has been institutionalized.
b. That there is a connection between commercial aspects and planning functions in a transparent and temporally feasible fashion which maximizes the potential for competition.

3. The DOE must provide clarity on the pricing principles introduced in the Transmission Policy and Regulation.

5.4 Market Surveillance Administrator (MSA)

1. The MSA should be involved in monitoring the use of non-competitive processes by the AESO. The MSA should evaluate any situation where conscription or non-RFP (or more generally, non-competitive) mechanisms are employed in the procurement of TMR and report findings of the evaluation publicly. Specifically, the MSA should determine whether the market intervention was the result of:

a. A problem with the market design;
b. Lack of information to the market or implementation of planning arrangements, and how this could be improved, for example by amending the arrangements for forecasting of demand for planning studies on which network investment decisions were based; or
c. The market conditions were outside the bounds of the technical requirements for planning and operational standards and the ability to conscript avoided a power system emergency. This is very similar in concept to the planning for operational contingencies where ancillary services are carried for credible events, but not for extreme or multiple events.

Only the last reason would satisfy a test of conscription as a backstop to commercial arrangements.