

NOTICE TO MARKET PARTICIPANTS AND STAKEHOLDERS

April 17, 2026

RE: Compliance Process and Investigation Procedures Stakeholder Consultation –
Stakeholder Comments in Response to Draft Investigation and Enforcement Process

On February 27, 2026, the MSA [requested](#) written comments from stakeholders in response to the publication of the draft Investigation and Enforcement Process document.

Comments were received from eight entities:

Alberta Electric System Operator

AltaLink

ATCO Electric Ltd

Capital Power

Enfinite

ENMAX

EPCOR Distribution & Transmission

Suncor

The MSA would like to thank the stakeholders who provided comments (attached below). They will all be considered and, if appropriate, may be reflected in the final document. It is our intention to publish the updated Enforcement and Compliance Process document along with our rationale, on June 5, 2026.

Nancy Bishay
Executive Director, External Engagement and Corporate Services

April 16, 2026

Via Email: stakeholderconsultation@albertamsa.ca

Market Surveillance Administrator
#600, 440 – 2 Avenue SW
Calgary, AB T2P 5E9

Attention: Derek Olmstead, Administrator & CEO

Dear Mr. Olmstead:

Re: Draft Investigation and Enforcement Process

The Alberta Electric System Operator (“**AESO**”) submits the attached comments in response to the draft Investigation and Enforcement Process (“**IEP**”) referred to in the Market Surveillance Administrator’s (“**MSA’s**”) February 27, 2026 Notice to Market Participants and Stakeholders.¹

As described in the attached comments, the proposed changes to the MSA’s existing IEP raise significant concerns regarding reduced procedural fairness in investigations. In particular, the draft IEP removes the requirement for the MSA to discuss changes to investigation procedures with a party under investigation, undermining general reliance on the IEP. It is also unclear whether investigated parties may make submissions throughout an investigation, which may result in an incomplete factual record. The draft further permits the MSA to withhold the subject matter of an investigation from the investigated party and refuse to meet with the party, which impede a party’s ability to preserve records, cease contravening conduct, and prepare an informed response. The removal of the word “reasonable” from existing provisions diminishes the recognized need for parties to have more than one opportunity to clarify scope or process, and departs from the language of the governing legislation.

In addition, the draft IEP reduces timelines for extensions without input from the investigated party, introduces enhanced penalties based on what the AESO considers to be unrealistic expectations of response effort, and removes the requirement to provide copies of recordings or transcripts of

¹ Market Surveillance Administrator, [Notice to Market Participants and Stakeholders Re: Publication of Draft Investigation and Enforcement Process](#) (February 27, 2026).

interviews. These practices would deny parties the ability to correct errors and make full answer and defence. The draft also makes notice of exoneration discretionary rather than mandatory, and contemplates *ex parte* hearings in circumstances not supported by the *Alberta Utilities Commission Act*. Collectively, these changes are, in the AESO's view, inconsistent with the *Alberta Utilities Commission Act* and with the principles of procedural fairness that should underpin the MSA's investigation and enforcement framework. Accordingly, the AESO does not consider the draft IEP to be ready for finalization.

From a compliance perspective, the MSA is not proposing to implement a risk-based enforcement program and has not materially modified its self-reporting and mitigation plan processes. Other jurisdictions have adopted risk-based enforcement programs that reduce administrative burden and focus resources on the highest risks and priorities, such as NERC's Self-Logging process and its transparent, risk-based violation severity levels for each reliability standard requirement. The MSA's omission of these concepts does not align with the approach the AESO and market participants are taking through the Alberta Risk-Based Compliance Monitoring Program ("**ARCMP**").

Consistent with the WECC-AESO Membership and Operating Agreement, WECC's compliance monitoring of the AESO is to be substantially consistent with how the AESO monitors Alberta market participants and, where possible, consistent with the monitoring program WECC uses in the United States. However, the MSA has not established a transparent risk-based compliance monitoring program for the AESO that is consistent with the ARCMP, nor has it issued the AESO a risk-based Compliance Oversight Plan comparable to what the AESO provides market participants. As a result, the AESO lacks the clarity and certainty required to apply an informed, internal risk-based approach and to allocate its resources effectively.

Furthermore, the revised IEP does not provide a transparent and clear process for coordination and information sharing between the AESO and the MSA. The AESO and the MSA are often unaware of what matter the other is working on, leading to duplication of effort, confusion, and unnecessary regulatory burden for all parties involved. The AESO sees significant value in working collaboratively with the MSA to clearly document coordination and information sharing processes, explore shared technology solutions, and align the end-to-end compliance and enforcement processes in Alberta. Doing so would result in materially enhanced transparency, effectiveness, and efficiency for the industry. However, to realize these benefits, further consultation with stakeholders and meaningful revisions to the draft IEP are required before finalization.

The AESO appreciates the opportunity to provide input and remains available to discuss its comments with the MSA.

Yours truly,

Nicole Hall

Vice President Finance and Compliance

IEP Comments

| Draft IEP Section (where applicable, blacklined against current IEP Section) | Issue and Recommendation |
|--|---|
| Procedural Fairness | |
| <p>Re s. 2.1 Scope and application of investigation procedures</p> <p>The MSA reserves the right to vary these procedures at any time. In the case of a deviation from these procedures which is only applicable to a specific investigation, the MSA will discuss the change with the party under investigation. In the case of a material change that will have general impact, the MSA will consult with market participants on the proposed change. The MSA may update this document without consultation for non-material changes.</p> <p>The MSA will follow the IEP when it suspects a market participant or the ISO has engaged in a course of conduct which may contravene a statutory provision within the MSA’s mandate and in respect of which, following investigation, the MSA may take enforcement action against the party under investigation. The circumstances of each investigation are unique, and the MSA retains the discretion to exercise its statutory powers appropriate to the circumstances of each investigation, including without prior notice to the party under investigation. This may include taking steps in addition to or other than those described the IEP.</p> | <p>The revised language removes the requirement for the MSA to discuss a change in investigation procedures with the party under investigation and undermines general reliance on the IEP. However, consistent with the legislative regime, parties should be able to rely on the procedures set out in the IEP in full, or with limited deviations where obviously necessary.</p> <p>Recommendation: Revert to original language.</p> |

IEP Comments

| Draft IEP Section (where applicable, blacklined against current IEP Section) | Issue and Recommendation |
|---|--|
| <p>Re s. 6.1.1 Notice of investigation</p> <p>The Nnotice of iinvestigation will briefly describe the conduct under investigation and will, include appropriate contact information for the MSA, specify a deadline to voluntarily provide additional information to the MSA prior to the investigation being started, and confirm whether the matter will be subject to the summary investigation process or extended investigation process.</p> | <p>Investigated Parties must be provided with the subject matter of the investigation. Being fully informed as to the particular conduct under investigation allows parties to preserve records, cease contravening actions, and begin gathering information to respond to an investigation. Parties should understand the issues at hand.</p> <p>Relatedly, the IEP should delineate circumstances for the summary investigation process as opposed to the extended investigation process. The graphic showing the MSA Investigation and Enforcement Process on page 7 of the draft IEP indicates that the deciding question is whether the matter record is sufficiently complete for a summary investigation, but it does not provide the criteria the MSA would use to make that determination. Clarity for investigated parties would be improved if the MSA identified specific criteria in its IEP for proceeding by way of a summary investigation, and then addressed in its notice of investigation whether and why those criteria had been satisfied in the particular circumstances.</p> <p>Recommendation: Delete “briefly” and delineate circumstances for the summary investigation process.</p> |
| <p>Re s. 6.1.1 Notice of investigation</p> <p>The MSA will provide reasonablean opportunity for the party under investigation to make inquiries of the MSA regarding the scope of the investigation and the investigation process.</p> | <p>Removing the word “reasonable” diminishes the flexibility that exists in the current IEP, which recognizes that parties may need more than one opportunity to clarify scope or process, and reflects the language of the legislation.</p> <p>Recommendation: Revert to original language.</p> |

IEP Comments

| Draft IEP Section (where applicable, blacklined against current IEP Section) | Issue and Recommendation |
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| <p>Re s. 6.1.6 Meetings during an investigation</p> <p>The MSA is open to meeting with market participants or the ISO while an investigation is ongoing to discuss issues relevant to the investigation, including at the request of the market participant or the ISO. The MSA will exercise its discretion as to whether and when such meetings will occur, may take any step in an investigation without prior meetings with the party under investigation, and may conclude any investigation without meeting with the party under investigation.</p> | <p>When conducting an investigation, the MSA should inform the investigated party of the issues under investigation and listen to the investigated party’s responses. Meetings between the MSA and an investigated party can significantly assist in this effort. The new language suggests that the MSA may refuse to meet and withhold notice, both of which should be avoided.</p> <p>NERC and the Regional Entities have completed significant modernization efforts to its enforcement model, processes, and entity engagement protocols to encourage collaboration and dialogue and increase transparency and efficiency. These efforts can result in enhanced reliability and compliance outcomes when entities are working collaboratively and effectively with the U.S. electricity regulators through the enforcement process.</p> <p>Recommendation: Revert to original language and consider aligning the enforcement approach in Alberta to align with other jurisdictions.</p> |
| <p>Re s. 6.1.6 Meetings during an investigation</p> <p>“while the MSA may discuss the content of or deadlines for information requests or other information gathering steps in meetings with the party under investigation, no changes to content or deadlines discussed will be effective unless confirmed in writing by the MSA.”</p> | <p>Investigated parties should be able to rely on the representations of the MSA whether, oral or written.</p> <p>Recommendation: Revert to original language.</p> |

IEP Comments

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| <p>Re s. 6.1.7 Information and record gathering</p> <p>The MSA will make reasonable efforts to reach mutually agreeable arrangementsIn addition to gathering information and records from the party under investigation, the MSA may exercise its statutory authority to gather information or records from partiespersons who are not under investigation.</p> | <p>Since the last version of the IEP, record production and review in response to MSA requests has increased in complexity and cost. In keeping with its statutory obligation to carry out its mandate in a fair and responsible manner, the MSA should continue to make reasonable efforts to reach arrangements with investigated parties for the provision of records.</p> <p>Recommendation: Retain the language indicating that the MSA will make reasonable efforts to reach mutually agreeable arrangements for the provision of records and information by an investigated party.</p> |
| <p>Re s. 6.1.7 Information and record gathering</p> <p>The MSA may also request or demand information related to an investigation from partiesis not required to and will generally not provide notice to or otherwise involve the party under investigation when it gathers information or records from persons whose conduct is not under investigation [AUCA s. 46, MSR s. 3].</p> | <p>The new language suggests a new practice that risks the MSA improperly receiving privileged information and, relatedly, to the extent evidence gathered becomes inadmissible, inefficient costs arise for all parties.</p> <p>Recommendation: Revert to original language.</p> |

IEP Comments

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|---|---|
| <p>Re s. 6.1.7 Information and record gathering</p> <p>The MSA will generally not provide any information or records gathered during its investigation to the party under investigation while the investigation is ongoing. When the MSA provides its summary of findings (section 6.3.4), it will provide copies of any records referenced in the summary of findings to the party under investigation.</p> | <p>Not providing information to a party under investigation suggests a significant change in practices. Refusing to provide information to a party under investigation to allow an informed response is inconsistent with obligations on investigators like the MSA. Early responses before the summary of findings also promotes the efficient use of resources and avoids continuing investigations premised on misconceptions or inaccuracies.</p> <p>Recommendation: Remove the added language.</p> |
| <p>Re s. 6.1.7(1) Information requests</p> <p>Any request for additional response time must include reasons why the additional time is needed. Requests must be received by the MSA in writing at least twoan extension must be made at least 5 business days prior to the existingset deadline.</p> | <p>Reducing the permitted window to request an extension undermines fairness to investigated parties, particularly given the MSA’s intention to establish initial deadlines without the input of the investigated party. Rather than imposing a fixed timeline, the nature of the request should determine the extension. Practically, the proposed change is likely to proliferate extension requests, as parties will conservatively estimate response time.</p> <p>Recommendation: Revert to original language.</p> |

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| <p>Re s. 6.1.7(1) Information requests</p> <p>Failing to provide full and complete responses by the set deadline may lead the MSA to seek an order compelling the party under investigation to provide information or records requested. In addition, the MSA views timely and complete responses to information requests as an aspect of market participants' obligation to reasonably co-operate with the MSA. For this reason, the MSA may seek enhanced penalties in enforcement proceedings where a party under investigation does not provide timely and complete responses to information requests.</p> | <p>In the AESO's experience, the MSA underestimates the degree of effort required to respond to its requests. Enhanced penalties are not reasonable where they are based on unrealistic expectations, as distinct from cases involving flippant or wilful disregard for reasonable MSA requests.</p> <p>Recommendation: Remove added language.</p> |
| <p>Re s. 6.1.7(2) Interviews</p> <p>If the MSA records an interview, it will provide a copy of the recording or transcript to the relevant parties prior to or concurrent with giving written notice to the Commission requesting a hearing or other proceeding under s. 51 of the AUCA.</p> | <p>The proposed absence of this language raised concerns in 2016, as it does now. Removing the requirement for the MSA to provide a copy of the recording or transcript would be a new and unfair practice and should not be adopted.</p> <p>The interviewee and investigated party should be able to correct typos, errors or misstatements so the investigation proceeds accurately. They must also be able to make full answer and defence to any allegations lodged against them or their employer/principal, as dictated by procedural fairness. Withholding transcripts is inconsistent with both obligations. To the extent there are concerns about any broader investigation, exceptional needs can be dealt with exceptionally. The starting point should be reviewing and confirming transcripts.</p> |

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| | <p>Recommendation: At minimum, retain the original language. Better, provide transcripts after interviews.</p> |
| <p>Re s. 6.2 Summary Investigation Process</p> <p>As such, market participants and the ISO can expect that process steps will be limited and, in many cases, the only communications with the MSA will be the notice of investigation and the notice of the determination.</p> | <p>The investigated party should be able to provide the MSA with information that is pertinent to its investigation regardless of the nature of the complaint.</p> <p>Recommendation: Restore the earlier ability for parties to provide relevant information.</p> |
| <p>Re s. 6.2.2 Opportunity to voluntarily provide additional information and records</p> <p>Extension requests for submitting information should be made in writing to the MSA contact specified in the notice of investigation at least two business days prior to the deadline specified and include the reason for the request.</p> | <p>This timeline is inconsistent with the extension timeline set out in 6.1.7(1).</p> <p>Recommendation: Align timelines by reverting to the original language.</p> |
| <p>Re s. 6.3.4 sharing summary of findings</p> <p>With its summary of findings, the MSA will provide the party under investigation with copies of records relied upon in reaching its findings. This may include extracts of any transcripts of interviews conducted by the MSA. In exceptional cases, the MSA may proceed to take enforcement action or seek other relief against the party under investigation prior to providing its summary of findings to the party under investigation.</p> | <p>The draft allows only extracts of transcripts, whereas the previous IEP contemplated full transcripts. This reduces transparency and may limit a party's ability to identify exculpatory information.</p> <p>Recommendation: Revert to original language.</p> |

IEP Comments

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| <p>Re s. 7 Enforcement actions</p> <p>In some cases, upon review of all information and records obtained in an investigation, the MSA may concluded [sic] that the party under investigation did not contravene an enactment. In such cases, the MSA may provide notice of that finding to the party under investigation.</p> | <p>The draft makes notice of exoneration discretionary, whereas the prior IEP required such notice. This introduces uncertainty for investigated parties.</p> <p>Recommendation: Revert to original language.</p> |
| <p>Re s. 7.2.1 Request for an AUC hearing or other proceeding</p> <p>In appropriate circumstances, the MSA may request a hearing from the Commission prior to the conclusion of an investigation and, subject to the applicable rules of practice, may do so without notice to the party under investigation.</p> | <p>Section 51(3) of the <i>Alberta Utilities Commission Act</i> requires the MSA to serve the notice to parties named in the notice when a hearing is requested, along with section 8 of AUC Rule 001, which requires the AUC to provide notice of an enforcement proceeding. The <i>Alberta Utilities Commission Act</i> only contemplates <i>ex parte</i> hearings when the person to whom a notice of specified penalty was issued under subsection 52(1) relating to ISO rule or reliability standards contraventions <u>fails to attend</u> before the Commission.</p> <p><i>Ex parte</i> hearings should be minimized generally, and any intent to use them should be well-explained.</p> <p>Recommendation: Remove the new language concerning “without notice”.</p> |
| <p>Compliance Processes</p> | |
| <p>Re ss:</p> <ul style="list-style-type: none"> • 4.1 Self-reports | <p>The MSA is not proposing to implement a risk-based enforcement program and is not materially modifying its self-reporting process. The severity of different ARS contraventions should be clearly articulated and enforcement efforts prioritized accordingly, rather</p> |

IEP Comments

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| <p>The MSA encourages the self-reporting of contraventions of any provisions of enactments within its jurisdiction.</p> <ul style="list-style-type: none"> • 7.1.3 Reliability standard contravention severity <p>Where required by AUC Rule 027, the MSA will determine the severity of each contraventions found. In determining the severity of contraventions, the MSA will consider all relevant factors including, without limitation:</p> <ul style="list-style-type: none"> • information provided in any self-report or referral from the ISO or WECC; • available facts about the non-compliant performance; • the relative continuum of conduct which would result in finding low, moderate, high, or severity, as applicable; • whether the percentage, rather than the count, of non-compliant performance is a better indication of contravention severity; • the duration of the conduct at issue relative to the timeframe, if any, defined in the requirement; and • the Alberta risk rating of the standard and requirement. | <p>than relying too heavily on self-reporting or an open-ended list of criteria for severity determinations. Other jurisdictions have adopted risk-based enforcement programs to reduce administrative burden and focus efforts on the highest risks and priorities. For example, NERC has implemented a risk-based enforcement program with its current Self-Logging process. NERC also provides its industry with clear and transparent risk-based violation severity levels for each reliability standard requirement.</p> <p>The MSA's omission of risk-based enforcement concepts and clear severity criteria under ARS does not align with the efforts and approach the AESO and market participants are taking more broadly.</p> <p>Recommendation: The MSA should clearly define what ARS contraventions are more or less severe based on related system risks, and in tandem clarify which higher-risk contraventions are prioritized for enforcement.</p> |
| <p>Re ss.:</p> <ul style="list-style-type: none"> • 4.1.4 Mitigation plans (2) Completion of a mitigation plans | <p>The AESO is not obligated to conduct a spot audit at the MSA's request. While doing so may be reasonable following a request, the new language is unclear about when or why the MSA would request that the AESO conduct a spot audit over conducting its</p> |

IEP Comments

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| <p>Following completion of a mitigation plan, the MSA may request a spot audit to be completed by the compliance monitor to verify successful mitigation of the underlying root cause(s).</p> <ul style="list-style-type: none"> 6.1.3 Referral of matters to another body <p>Should the MSA determine during an investigation that a matter is within the jurisdiction of another body, including the Commission, it will notify that body of the matter and may make available to that body records in its possession relevant to the matter [AUCA s. 45(1)]. This may include requesting a spot audit of the market participant as described in section 7.5.2 of the Alberta Risk-Based Compliance Program. After such notification, the MSA may continue or discontinue its investigation, or collaborate with the other body [AUCA s. 45(2)].</p> | <p>own investigation or suggesting the AESO consider including a specific risk in the next scheduled compliance monitoring activity of a market participant.</p> <p>Recommendations:</p> <ul style="list-style-type: none"> Clarify under what circumstances and for what reasons the MSA would request the AESO to conduct a spot audit to verify successful mitigation of the underlying root cause(s) rather than conduct its own diligence and investigation. Clarify the process of how the MSA intends to collaborate with the AESO pursuant to Section 45(2) of the <i>Alberta Utilities Commission Act</i>. The AESO sees potential value in collaborating with the MSA in joint assessments of matters that pose a significant risk to reliability, security, FEOC, etc. However, this requires discussion between the MSA and the AESO, and should result in a transparent process for the industry. |
| <p>Re s. 4.1.1 MSA forms and submission procedures</p> <p>The MSA maintains compliance forms in the Process & forms section of its website, including self-report forms for both ISO rules and reliability standards matters as well as a mitigation plan form for reliability standards matters and, optionally, ISO rules contraventions where the conduct at issue is on-going.</p> | <p>The MSA only maintains a mitigation plan form for ARS.</p> <p>Recommendation: Create a mitigation plan form for ISO rules to align with the new process.</p> |

IEP Comments

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| <p>Re s. 4.1.3 Self-reporting during compliance processes</p> <p>The MSA always encourages self-reporting of contraventions, including during ISO or WECC compliance processes such as audits or self-certifications. However, in the case of a self-report that is within the scope of a current or pending compliance process, the MSA will note the self-report, including creating a matter record and sharing the matter number with the market participant and the ISO, but will hold the remainder of the process until the compliance process has been completed including any related referrals of suspected contraventions, which can include conduct related to that described in the self-report.</p> <p>Following confirmation from the applicable compliance monitor that the compliance process has been completed, the MSA will proceed with the process. If the MSA determines that specified penalties are warranted in relation to conduct within the scope of the compliance process, self-report discounts will be applied if the requirements in the applicable AUC rules have been met.</p> | <p>It is unclear why the MSA would <i>generally only</i> “hold” self-reports filed by the AESO and market participants during AESO and WECC compliance monitoring processes. In at least some cases, common issue identification should be expected to result in more efficient identification and resolution.</p> <p>There is also no reference to the AESO’s ISO rules compliance monitoring process. In addition, the MSA may not be aware that the AESO is conducting a compliance monitoring activity for ISO rules or ARS (e.g., information request, spot audit, sweep, etc.) at the time they receive a market participant’s self-report.</p> <p>Recommendations:</p> <ul style="list-style-type: none"> • Include clear criteria for when and why the MSA will not recognize self-reports filed by the AESO and market participants during AESO and WECC compliance monitoring processes. • Include references to the ISO rules compliance monitoring process and indicate how and when the MSA will confirm that the AESO’s compliance monitoring processes have started and completed. • Explore opportunities with the AESO to implement shared technology that enables better awareness and the execution of the end-to-end compliance and enforcement processes in Alberta to significantly increase efficiency for the industry. |

IEP Comments

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| | <ul style="list-style-type: none"> • Fix typographical error in last sentence – “...self-report discounts will be applied if the requirements # <u>of</u> the applicable AUC rules have been met.” • This section of the draft investigation procedures generally needs revision after coordination with the AESO to define a mutually understood and accepted protocol for avoiding overlapping compliance processes to promote regulatory efficiency. |
| <p>Re s. 4.1.4 Mitigation plans (1) Submitting a mitigation plan</p> <p>Mitigation plans must be submitted in the form provided on the MSA’s website in the process & forms section. The mitigation plans must be submitted in accordance with the submission requirements in section 4.1.1 for self-reports.</p> | <p>The AESO is often unaware of market participant mitigation plans and associated updates/changes. This causes a significant amount of administrative burden for both the AESO and market participants during compliance monitoring activities.</p> <p>Recommendations:</p> <ul style="list-style-type: none"> • Encourage market participants to copy the AESO when submitting mitigation plans and associated updates the same way it encourages market participants to copy the AESO on self-reports. • Explore opportunities with the AESO to implement shared technology that enables better awareness and the execution of the end-to-end compliance and enforcement processes in Alberta to significantly increase efficiency for the industry. |

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| <p>Re s. 4.1.4 Mitigation plans (2) Completion of a mitigation plan</p> <p>The market participant or the ISO is responsible for completing the mitigation plan. Once a mitigation plan has been completed, the market participant or the ISO must submit an updated mitigation plan form noting completion within five business days in accordance with section 4.1.1. An updated mitigation plan form is not required following completion of each activity contemplated in the mitigation plan.</p> <p>Following completion of a mitigation plan, the MSA may request a spot audit to be completed by the compliance monitor to verify successful mitigation of the underlying root cause(s).</p> | <p>The AESO has concerns about the effectiveness of the proposed mitigation plan review process and reliance on the spot audit process in light of its past experience with recurring contraventions that market participants purportedly addressed in mitigation plans. The proposed process notably omits reviewing evidence that demonstrates market participant completion of the plans. The NERC enforcement process includes this review and Regional Entity enforcement teams may request and assess evidence to verify mitigation plan completion.</p> <p>As the party that may support compliance assessments with subsequent spot audits, more direct coordination is needed between the AESO and the MSA to better understand the MSA's use of mitigation plans and to promote compliance with such plans, while preserving the MSA's confidentiality requirements and institutional independence.</p> <p>Recommendation: This section of the draft investigation procedures needs revision after coordination with the AESO to enhance mitigation plan effectiveness and related compliance monitoring/enforcement after a plan is filed</p> |
| <p>Re s. 4.2.1 Collaboration between ISO and MSA</p> <p>The ISO is required under section 17(l.1) of the EUA to monitor the compliance of market participants with the ISO rules and under section 23 of the T-Reg to carry out compliance monitoring</p> | <p>The AESO agrees that it is critical for the AESO and MSA to coordinate effectively to execute each body's respective compliance monitoring and enforcement mandates. The MSA's investigation process revision creates an opportunity to enhance information sharing practices between the AESO and the MSA</p> |

IEP Comments

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| <p>of market participants with reliability standards. As the mandate of the MSA includes</p> <p>enforcement of contraventions of the ISO rules and reliability standards, the ISO and the MSA work together to address compliance.</p> <p>The MSA will endeavour to coordinate its contact with the market participant in relation to a particular ISO rules or reliability standards issue identified by the ISO through its monitoring, such that the market participant will generally deal with only one agency at a time.</p> | <p>that would result in enhanced transparency, effectiveness, and efficiency.</p> <p>However, the revised language does not provide a transparent and clear process for this coordination and two-way communication to occur. Often, the AESO and MSA are unaware of what matters the other is working on, which can cause duplication of effort, confusion, and regulatory burden for all parties involved.</p> <p>Recommendation: The draft investigation procedures need revision following coordination with the AESO on improved information sharing processes and use of shared technological tools to improve transparency, effectiveness, and efficiency for the industry.</p> |
| <p>Re. s. 4.2.2 Collaboration between WECC and MSA</p> <p>The WECC-AESO Membership and Operating Agreement, approved by AUC Order U2008-261, and the MSA-WECC Service Level Agreement define a role for WECC as the compliance monitor for reliability standards applicable to the AESO.</p> <p>WECC, acting as the applicable compliance monitor for the ISO, will monitor for potential compliance issues in accordance with the MSA-WECC Service Level Agreement.</p> | <p>The WECC-AESO Membership and Operating Agreement referenced by the MSA confirms that WECC’s compliance monitoring of the AESO will be substantially consistent with how the AESO monitors Alberta market participants’ compliance with Alberta Reliability Standards. The agreement also confirms that WECC’s compliance monitoring program of the AESO should be based on the AESO’s Alberta Risk-Based Compliance Monitoring Program (“ARCMP”) and, where possible, is consistent with the monitoring program that WECC uses in the U.S. The MSA has not included a transparent risk-based compliance monitoring program or established processes for the AESO that are consistent with the ARCMP.. As a result:</p> |

IEP Comments

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| | <ul style="list-style-type: none"> • The AESO is unaware of what ARS the MSA and WECC are prioritizing and for what reasons. • The MSA has not provided clear processes for compliance monitoring of the AESO. <p>By contrast, the AESO provides transparent and clear compliance monitoring processes for market participants. The AESO does not require a market participant to conduct a self-certification during the same year it undergoes an audit. In addition, the AESO requires the market participant to only self-certify with a sub-set of ARS requirements based on risk; not all applicable ARS requirements.</p> <p>The AESO has undergone both audits and self-certifications in the same year and the AESO’s 2026 self-certification includes all applicable ARS requirements in addition to a request for evidence for a subset – this is a net new element of monitoring with no reduction in burden.</p> <p>Given the absence of a risk-based monitoring approach for the AESO, the draft IEP lacks the clarity and certainty required to apply an informed internal risk-based approach and allocate AESO resources in the most effective manner.</p> <p>Recommendation: In alignment with the agreement between WECC and the AESO, establish a transparent risk-based compliance monitoring program for the AESO’s ARS compliance that is consistent with the AESO’s application of the ARCMP for market participants.</p> |

IEP Comments

| Draft IEP Section (where applicable, blacklined against current IEP Section) | Issue and Recommendation |
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| <p>Re s. 4.2.5 Additional guidance on referral content</p> <p>The MSA notes the following information which, if not provided in a referral, may result in additional information requests to the ISO.</p> <ul style="list-style-type: none"> • The start and end dates of each suspected contravention. • For reliability standards, both the standard and the requirement for each suspected contravention (e.g., if multiple standards and requirements may have been contravened as part of a single event, all such standards and requirements should be included in the referral). • For O&P reliability standard related suspected contraventions, a listing of the affected facilities, the total number of impacted devices, facilities, and/or personnel as well as the percentage of the total population of devices, facilities, and/or applicable personnel affected by the contravention, etc. • For CIP reliability standards related suspected contraventions, a list of the facilities, BES cyber assets and BES cyber systems, associated physical access control systems, electronic access control or monitoring systems and/or protected cyber assets, etc. • The sample size utilized to determine the suspected contravention. | <p>The AESO appreciates that the MSA requires information from the AESO to assess suspected contravention referrals and agrees that transparency and clarity of this process is important. However, each referral of a suspected contravention may not include every element the MSA has listed, as the circumstance can differ greatly depending on the scope of the compliance monitoring activity and the nature of the suspected contravention. This list requires revision to ensure that information that supports an effective and efficient referral process is included.</p> <p>The AESO and MSA have discussed creating a referral form that aligns with the WECC compliance monitoring process and is transparent to Alberta market participants. Some examples for discussion are:</p> <ul style="list-style-type: none"> • Start and end dates – in some cases, the AESO may only be able to identify that a suspected contravention occurred during the compliance monitoring period (e.g., audit period). • Operations and planning (“O&P”) reliability standards – the MSA is only asking for a list of the affected/impacted population, not the list of total population. In some cases, the AESO may have the population data relevant to O&P suspected contraventions (e.g., a completed O&P Alberta Evidence Request Tool). • Final audit reports – in some cases, the AESO may identify positive observations and areas of control strengths in the |

IEP Comments

| Draft IEP Section (where applicable, blacklined against current IEP Section) | Issue and Recommendation |
|--|--|
| <ul style="list-style-type: none"> If the referral relates to an audit or self-certification process, a copy of the final audit report and any applicable reliability standard audit worksheets (RSAW) and evidence. | <p>audit report. In other cases, the AESO may identify areas of concern and opportunities for improvement. The AESO is not obligated to notify or refer these items to the MSA. It is not clear to the AESO or market participants how the MSA may use this information in its enforcement mandate.</p> <ul style="list-style-type: none"> Reliability standard audit worksheets (“RSAWs”) – the AESO does not currently provide a copy of completed RSAWs for each referral. The MSA sometimes requests that the AESO provide a copy of or an excerpt of the RSAW for a specific suspected contravention referral. It is unclear why the MSA now requires a copy of each RSAW. Discussion with the AESO are needed to determine whether this requirement promotes effectiveness and efficiency in the process. <p>Recommendation: This portion of the draft investigation procedures needs revision after more substantive engagement with the AESO.</p> |
| <p>Re s. 7.1.4 Acceptance of mitigation plans</p> <p>AUC Rule 027 provides for a penalty discount where the MSA accepts a mitigation plan provided by the market participant or the ISO. Any mitigation plan must be submitted with the self-report or within the deadline specified in the notice of investigation provided (sections 6.2.1 or 6.3.1).</p> | <p>The mitigation plan process does not state how and when the MSA will engage the AESO or a market participant to explain why it has not accepted a mitigation plan.</p> <p>In addition, the process does not include steps for the AESO or a market participant to respond to MSA feedback and effectively correct non-compliance and/or prevent future non-compliance. This may create a risk to reliability, security, and FEOC market operation. if the MSA does not provide a timely and transparent</p> |

IEP Comments

| Draft IEP Section (where applicable, blacklined against current IEP Section) | Issue and Recommendation |
|---|---|
| <p>AUC Rule 027 section 4.9 specifies criteria for the MSA to accept a mitigation plan. In determining whether these criteria are met, the MSA will consider the following factors:</p> <ul style="list-style-type: none"> • Whether the mitigation plan provides all required information set out in section 4.1.4; • Whether the mitigation plan is designed to correct the contravention; • Whether the mitigation plan correctly identifies and addresses the root cause(s) such that a repeat of the same circumstance would be unlikely to result in a contravention. • Whether the mitigation plan will be implemented in a timely fashion considering the risk to the reliable operation of the grid and the scope of implementation. Timelines longer than 90 days for mitigation plans with limited scope (degree of process changes, number of assets affected, etc.) and 1 year for mitigation plans with larger scope require justification on whether the mitigation can be considered as timely. • Extended mitigation plan timelines, beyond the timelines referenced above, should have interim measures to protect the reliability and security of the grid during implementation. | <p>rationale for its refusal, an opportunity for the entity to respond, and, as stated earlier re: s. 4.1.4, if the MSA does not assess evidence to verify that the non-compliance has been corrected.</p> <p>Recommendations:</p> <ul style="list-style-type: none"> • Improve the transparency of the process, such as having the MSA provide the AESO or a market participant timely notification and the reasons that it has not accepted a mitigation plan. • Improve the clarity of timelines for notification, entity response/mitigation plan amendment and re-submission, and MSA assessment. |

April 16, 2026

Via email: stakeholderconsultation@albertamsa.ca

Mike Morganton
Executive Director, Enforcement
Market Surveillance Administrator
#600, 440 – 2nd Avenue SW
Calgary, Alberta T2P 5E9

Dear Mr. Morganton,

RE: Market Surveillance Administrator (MSA) Consultation on Compliance Process and Investigation Process

AltaLink Management Ltd. (“AltaLink”) appreciates the opportunity to provide comments on the Market Surveillance Administrator’s draft *Investigation and Enforcement Process* (“IEP”) dated February 27, 2026. AltaLink supports the MSA’s objective of promoting transparency, procedural clarity, and efficiency in the investigation and enforcement of potential contraventions. The overall structure of the Investigation and Enforcement Process (“IEP”), including the distinction between a summary investigation process and an extended investigation process, is helpful and provides market participants with greater visibility into how matters are generally expected to proceed.

AltaLink respectfully offers the following comments for MSA’s consideration.

Firstly, regarding the summary investigation process. As currently described, the summary investigation process is intended to be a streamlined, largely record-based process that relies primarily on information provided in a self-report or referral, together with any additional information voluntarily submitted following the notice of investigation. AltaLink agrees that this approach is appropriate for many straightforward matters and supports the objective of timely resolution. AltaLink suggests that a limited, targeted round of information requests may, in some cases, enhance the efficiency and fairness of the summary investigation process, rather than detract from its summary nature. In AltaLink’s experience, a single, focused information request can help clarify discrete factual points, avoid unnecessary escalation to an extended investigation, and support more accurate and proportionate determinations.

Secondly, AltaLink believes there is an opportunity to clarify information request timelines. The IEP states: Information requests will set a deadline for response, which will consider the scope and nature of the information or records requested. Where a party under investigation believes additional time is required to respond to an information request, they may request an extension of time. Any request for an extension must be made at least 5 business days prior to the set deadline...¹

While the information request indicates that requests for extensions must be filed within five days, no standardized response timelines for information requests are otherwise specified. AltaLink submits that a standard response period of at least two weeks should be provided, with longer timelines established for

¹ [Investigation and Enforcement Process](#) at page 18



more complex information requests. This approach would align with the Alberta Utilities Commission's practice, which typically provides two to three weeks for responses to information requests.

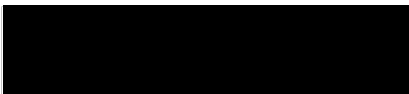
Thirdly, as set out in the IEP, the assessment of mitigation timeliness considers whether the proposed mitigation will be implemented in a timeframe that is reasonable having regard to the risk to the reliable operation of the Alberta Interconnected Electric System and the scope of the mitigation, including the extent of process changes and the number of assets affected. The IEP further notes that mitigation timelines exceeding 90 days for limited-scope mitigation plans and one year for broader-scope plans require justification for whether the mitigation can reasonably be considered timely.

AltaLink submits that allowing a six-month implementation period, rather than a three-month period, will result in more effective and durable mitigation outcomes and better support the MSA's objectives under the IEP. Meaningful mitigation requires coordinated process development, internal governance and approval, documentation updates, and appropriate training to ensure controls are clearly understood and applied consistently. Providing additional time enables mitigation measures to be thoughtfully designed and supports higher-quality mitigation measures that are sustainable and aligned with the intent of timely and effective compliance. Many mitigation measures that are considered uncomplicated nonetheless involve technical configuration changes, testing, and validation within production systems. These changes must be carefully designed, implemented, tested, and verified through established change management processes to avoid unintended system impacts. In addition, any outage requires a minimum 60-day notification to the Alberta Electric System Operator, making a 90-day mitigation window impractical in many cases. AltaLink must also maintain the ability to deploy field crews flexibly to address higher-priority, system-critical work as conditions evolve, which can further constrain the ability to schedule and execute lower-risk mitigation activities within a fixed 90-day timeframe. Other mitigation actions require coordination with customers, which is similarly often not feasible within 90 days.

Thank you for the opportunity to provide input. Please get in touch with me at [REDACTED] if you have any questions.

Sincerely,

Shanelle Sinclair



Director, Law & Regulatory Compliance (Interim)

April 16, 2026

Dr. Derek Olmstead
Administrator & CEO
Market Surveillance Administrator
#600, 440 – 2nd Avenue SW
Calgary, Alberta, Canada

Dear Dr. Olmstead:

RE: Consultation on Draft Investigation and Enforcement Process

On February 27, 2026, the Market Surveillance Administrator (“MSA”) published a draft Investigation and Enforcement Process (“IEP”) for stakeholder consultation.

ATCO Electric Ltd. (“AEL”) appreciates the opportunity to provide comments on the IEP and respectfully submits the following comments for MSA’s consideration.

- The extended investigation process is understood to apply to all investigations that do not follow the summary investigation process, which should be clarified in Section 6.3.
- The IEP specifies that extension requests for submitting information can be made for i) voluntary disclosures, and ii) MSA information requests. Please clarify whether extension requests can be made for a response to the summary of findings, as described in Section 6.3.4.
- Please specify the MSA’s retention policy for evidence/information submitted by the market participants.

Sincerely,



Emma Halilovic
Program Manager, Reliability Compliance



Capital Power
1200-10423 101 Street NW
Edmonton, AB T5H 0E9

Delivered via email to:

stakeholderconsultation@albertamsa.ca

nancy.bishay@albertamsa.ca

April 16, 2026

Market Surveillance Administrator (“MSA”)
#600, 440 – 2nd Avenue SW
Calgary, Alberta T2P 5E9

Attention: Nancy Bishay, Executive Director, External Engagement and Corporate Services

Re: Consultation on Compliance Process and Investigation Procedures

Capital Power appreciates the opportunity to provide comments in response to the MSA’s Draft Investigation and Enforcement Process (“Draft Process” or “IEP”) released on February 27, 2026.

Capital Power has thoroughly reviewed the Draft Process and its main concern centers on the Draft Process’ misalignment with the common-law duty of procedural fairness. The *Alberta Utilities Commission Act* (“AUC Act”) gives the MSA broad investigative authority but does not prescribe detailed investigative processes. The latitude afforded to the MSA to develop its own investigation procedures, however, should not be interpreted as allowing the MSA to forgo procedural fairness in its design.

As the Supreme Court of Canada has long recognized, any public authority making an administrative decision affecting a person’s rights, privileges or interests is bound by a duty of procedural fairness.¹ The MSA is no exception. As the Alberta Utilities Commission (“Commission”) has confirmed, the MSA must act fairly in conducting investigations.² This common-law obligation is reinforced by section 40 of the AUC Act, which expressly requires that the MSA “carry out its mandate in a fair and responsible manner.” While courts recognize that the content of the duty of procedural fairness must necessarily be evaluated on a case-by-case basis,³ a core principle—one of paramount importance in the context of the Draft Process—is that those subject to an administrative decision be provided with an adequate opportunity to know the case against them and to be heard by the decision-maker in question.⁴

¹ See e.g. *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 at para 20, citing *Cardinal v Director of Kent Institution*, [1985] 2 SCR 643 at 653.

² *Market Surveillance Administrator allegations against TransAlta Corporation et al., Mr. Nathan Kaiser and Mr. Scott Connelly – Phase 1 (Re)*, AUC Decision 3110-D01-2015 (27 July 2015) at para 841.

³ See e.g. *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 77.

⁴ See e.g. *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 at para 28; *Nicholson v. Haldimand-Norfolk (Regional Municipality) Commissioners of Police*, [1979] 1 SCR 311 at 327–28.

Transparent, balanced and stable investigation and enforcement procedures play an important role in holding the MSA accountable to its duty of fairness when interacting with market participants exposed to significant potential legal, reputational or financial consequences from its decision-making. This is reflected in the requirement in the *Market Surveillance Regulation* (“MSR”) that the MSA publicize its investigation procedures and consult with market participants before implementing material changes.⁵ In Capital Power’s view, the Draft Process risks undermining procedural fairness in a number of respects. The Draft Process also overlooks potential improvements that could enhance the quality of engagement between the MSA and market participants and the transparency of the MSA’s decision-making within the investigation process.

In particular, Capital Power has concerns with the following aspects of the Draft Process:

(1) The Draft Process preserves a very broad discretion for the MSA while offering limited assurance of procedural fairness to market participants within the investigative process.

a. Section 2.1 – Scope and application of IEP - Ability to Depart from the IEP Without Notice

The MSA states that “the circumstances of each investigation are unique” and that it “retains the discretion to exercise its statutory powers appropriate to the circumstances of each investigation, including without prior notice”, and may take steps “in addition to or other than those described in the IEP.” There is no express constraint or test on how discretion will be exercised or when deviation is justified.

This approach undermines the predictability of the investigative process administered by the MSA. Without reliable baseline procedures or advance notice of deviations, market participants cannot meaningfully understand the process that will be applied to their case and appropriately structure their participation in it. This significantly dilutes the value of the MSR’s requirement that the MSA’s procedures be publicly disclosed. This uncertainty likewise impairs a market participant’s ability to know the case it must meet, to make informed representations and to safeguard its rights during the course of an investigation.

b. Section 5; Sections 6.2 and 6.3 - Choice Between Summary and Extended Investigation Processes

The MSA unilaterally decides whether a matter proceeds under the summary or extended investigation process. Even where summary treatment is indicated, the MSA may reclassify the matter at its discretion and move it into the extended process at any time, issuing only a revised notice.

⁵ *Market Surveillance Regulation*, Alta Reg 266/2007, s 7.

This discretion introduces instability and unpredictability into the MSA's process. Market participants cannot reasonably rely on the initial classification when making decisions about resourcing because the procedures applicable to the investigation may shift at any time without defined criteria or meaningful advance safeguards. The ability to escalate an investigation unilaterally, without an obligation to justify the reclassification or provide an opportunity for submissions, places market participants in a perpetually contingent position and undermines their ability to participate effectively in the investigative process. This lack of procedural certainty further erodes the balance and fairness required in an administrative investigation with potentially serious consequences.

c. Section 6.1.7 – Information and record gathering - Ability to Act Without Prior Notice When Gathering Information

Although notice is said to be “generally” provided, the MSA explicitly reserves the ability to act without prior notice where circumstances warrant. The standard for “circumstances warrant” is undefined and left entirely to the MSA’s judgment. The Draft Process would, at minimum, benefit from examples of circumstances the MSA considers relevant to exercising the powers set out in section 46 of the AUC Act. Many of these powers involve significant disruption to the day-to-day operations of market participants obliged to cooperate with the MSA in a no-notice scenario.

Without a defined threshold or criteria governing when notice may be withheld, market participants cannot reasonably anticipate when they will be afforded an opportunity to understand the allegations or prepare an informed response before investigative steps are taken. This open-ended reservation of authority undermines fairness by allowing the MSA to determine, without accountability or transparency, when procedural protections will apply.

d. Section 6.1.7- No Obligation to Disclose Investigative Record During Investigation

The MSA “will generally not provide any information or records gathered during its investigation to the party under investigation while the investigation is ongoing.” Disclosure occurs only later (if at all), and only in the form of records referenced in a summary of findings.

This approach prevents timely access to evidence on which investigative decisions are being formed. By withholding information throughout the investigative phase, the MSA deprives market participants of a meaningful opportunity to understand, respond to, or correct adverse evidence while it may still influence the scope, direction, or outcome of the investigation. Disclosure limited to selected records referenced in a summary of findings (i.e., only records relied upon rather than all records reviewed and considered)

further restricts transparency and risks presenting a curated or incomplete evidentiary picture, with no opportunity to challenge relevance, accuracy, or omission. This approach undermines the right to know and meet the case, entrenches an imbalance between investigator and subject, obscures whether all relevant evidence was contemplated and places the market participant in an inherently reactive position of being able to respond only after investigative conclusions have substantially crystallized.

e. Section 6.3.4 – Sharing Summary of Findings - Early Enforcement Before Sharing Findings (Exceptional Cases)

In “exceptional cases,” the MSA may take enforcement action or seek other relief before providing a summary of findings to the party under investigation. No definition or criteria informing what constitutes an “exceptional” case is provided.

This approach permits the MSA to pursue prejudicial enforcement actions against a market participant before the market participant is fully informed of factual and legal basis for those actions. In denying market participants the opportunity to respond to any new evidence relied upon at this stage of the investigation, the MSA’s process also increases the risk that the MSA’s exercise of its enforcement powers is premised on errors or misunderstandings that might otherwise have been corrected.

The absence of a defined threshold for what constitutes an “exceptional case” leaves Market Participants unable to predict when foundational fairness protections—such as disclosure of the case to be met and the opportunity to be heard—will be bypassed. Enforcement action taken prior to disclosure reverses the ordinary sequence of a fair regulatory process. This approach concentrates extraordinary power in the MSA while stripping the investigatory and enforcement process of the transparency, proportionality, and procedural balance required where serious consequences may be at stake.

f. Section 8 – Forbearance - Discretionary Forbearance Decisions

Although factors largely aligning with the existing Compliance Process are listed, the MSA emphasizes it “will determine whether forbearance is appropriate in each matter, based on the circumstances.” Consistent with its January 15, 2026 comments at the initial phase of this consultation process, Capital Power remains concerned with a lack of specificity in the MSA’s approach to forbearance decision-making.

Rather than responding to these concerns, the Draft Process increases the level of ambiguity around how the MSA approaches these matters by removing the prior Compliance Process’ statement that in circumstances where a market participant

meets all of the listed criteria, “the MSA will proceed with Forbearance”⁶ in favour of an across-the-board discretion.

This approach offers the appearance of decision-making criteria without providing any substantive assurance that those factors will meaningfully inform the outcome. Market participants have no reliable basis on which to understand how forbearance decisions will be made or to tailor their submissions to the criteria that will actually be applied. The absence of defined weighting, thresholds, or decision-making standards undermines transparency and predictability, and deprives Market Participants of a meaningful opportunity to influence an outcome that may significantly affect their regulatory and reputational interests. For clarity, this is not about eliminating discretion; it is about structuring it.

(2) The Draft Process limits opportunities for constructive engagement with the MSA during the course of an investigation.

a. Section 6.1.7 – Information and Record Gathering - Limited Proportionality and Flexibility in Approach to Information Requests

The Draft Process does not impose any obligation on the MSA to issue clear, specific, and directed information requests, increasing the risk of over- or under-production, misinterpretation of requests, and inadvertent gaps in disclosure. Without clearly framed requests tied to identified issues, the market participant cannot reliably determine what information is being sought or how it will be used, impairing its ability to respond meaningfully and proportionately. Ambiguous or overly broad requests also heighten the risk that adverse inferences may subsequently be drawn from perceived non-responsiveness, despite the absence of clear direction. Overly broad requests also carry significant resource implications for market participants.

In addition, the Draft Process does not adequately address reasonable extensions of time to allow market participants to respond to information requests. The Draft Process establishes a rigid deadline of 5 business days prior to a response deadline within which extension requests must be made. Market participants must balance investigation-related demands with the ongoing operation of their facilities and day-to-day business obligations. Information requests require market participants to allocate time to locate records, consult internal subject-matter experts, and ensure the completeness and accuracy of responses. Should a Market Participant not be able to meet an information request deadline or provide complete responses, the Draft Process indicates that the MSA may seek “enhanced penalties in enforcement

⁶ Market Surveillance Administrator, MSA Compliance Process (4 December 2020), s 4.1.

proceedings.” The MSA should expressly provide a practical, good-faith extension process supported by clear criteria and timely decisions. Doing so would serve to ensure that responses can be provided in an orderly manner without compromising reliability or imposing unnecessary operational burden. The Draft Process should also provide greater clarity on the criteria the MSA applies when evaluating penalties in connection with information request responses, with an embedded onus on the MSA to set reasonable timelines that contemplate the relevant context in which such responses are provided.

The lack of clear criteria or timely decision-making around extensions further entrenches an imbalance of power between the MSA and market participants, prejudicing the latter for failing to meet expectations that are neither transparent nor practicable. An express, good-faith extension framework would support fairness, reliability, and efficiency, while reducing unnecessary operational burden and mitigating the risk of unfair adverse inferences against market participants.

b. Section 6.1.6 – Meetings During an Investigation - Meetings Are Optional – Investigation May Conclude Without Engagement

“The MSA may take any step in an investigation without prior meetings with the party under investigation and may conclude any investigation without meeting with the party under investigation.”

This approach avoids providing any assurance of dialogue or meaningful engagement during an investigation. The investigation and outcomes may be entirely paper-based and unilateral. While this may be appropriate for certain categories of investigations, the ability to advance and conclude an investigation without meeting with the market participant risks critical facts, operational context, or mitigating circumstances not being fully understood or considered. The market participant may need to provide additional information where questions have not been properly framed, market or operational realities have been misunderstood, or the significance of certain facts has not been appreciated. A fully unilateral process heightens the risk of incomplete or distorted outcomes and undermines market participants’ opportunity to be meaningfully heard within the MSA’s process.

c. Section 7.2.1 – Request for an AUC Hearing - AUC Proceedings Without Notice

“In appropriate circumstances, the MSA may request a hearing from the Commission prior to the conclusion of an investigation and ... may do so without notice to the party under investigation.” By contemplating the possibility that the MSA may opt to initiate formal regulatory proceedings without prior notice to the market participant under investigation, the Draft Process potentially deprives market participants of the

opportunity to shape the investigative record, correct misunderstandings, or make submissions before a matter under investigation escalates to a public and adversarial forum. Given the significant reputational, operational, and financial consequences at stake in AUC enforcement proceedings and the benefits of avoiding more time-intensive litigated outcomes for all parties, the Draft Process should facilitate a minimum level of engagement between the MSA and market participants ahead of such steps being pursued.

(3) The Draft Process exhibits a lack of transparency.

a. Sections 6.1.12 and 8 – Lack of Transparency in Settlement and Forbearance Decisions

While providing a high-level description of settlement and forbearance, the Draft Process does not explain when settlement discussions may be offered or declined, how forbearance considerations are weighed, or why similarly situated parties may experience different outcomes. Even where factors relevant to forbearance are identified, the Draft Process emphasizes that ultimate determinations remain discretionary and case-specific, without explaining how those factors are balanced or applied.

This approach provides the appearance of structured decision-making without offering any substantive guidance as to how outcomes are reached. A market participant is left without a meaningful basis on which to understand what conduct or remedial actions may be relevant to achieving proportional outcomes, or how to engage constructively in discussions regarding resolutions.

The Draft Process also lacks any discussion of how the MSA's determinations will be made transparent or how market participants will be able to understand the rationale for outcomes, including the decision to pursue forbearance, impose a specified penalty, initiate an administrative application to the Commission, or conclude that no contravention has occurred. This lack of reasoning impairs market participants' ability to understand whether outcomes are consistent, proportionate, or aligned with stated criteria, and deprives them of insight enabling them to adjust their behaviour and compliance practices accordingly.

Greater transparency and clarity in this respect would promote consistency, predictability, and broader market understanding of how enforcement outcomes align with the stated criteria. Articulated reasoning is essential to ensure that discretionary power is exercised in a principled, accountable, and transparent manner.

b. Section 7.1.4 – Mitigation plans – Unclear Requirements

The Draft Process does not provide sufficient clarity regarding the required content of a mitigation plan.

The absence of defined requirements or evaluative criteria creates inefficiencies and unnecessary operational burden, both for the market participant and the MSA. Market participants may expend significant time and resources attempting to anticipate expectations that are not clearly articulated, while the MSA retains complete discretion to reject or revise mitigation proposals without reference to objective standards. A clearer framework for mitigation plans would improve the quality and efficiency of market participant submissions while reinforcing confidence that mitigation outcomes are assessed consistently and transparently.

In conclusion, market participants cannot rely on the Draft Process as a predictable roadmap given the overly broad discretion afforded to the MSA throughout. The Draft Process provides insufficient transparency into the rationale for MSA determinations—including settlement, forbearance, penalty selection, escalation to the Commission, and no-contravention outcomes—leaving parties unable to understand, respond to, or learn from enforcement actions in support of fair, efficient, and openly competitive markets.

To meet the common-law duty of procedural fairness and advance FEOC, the MSA should revise the Draft Process to include clear constraints on discretion, timely notice of key steps, meaningful opportunities to be heard, and published decision frameworks that explain the factors considered and how they are weighed. These procedural commitments would improve consistency and confidence in outcomes while enabling market participants to understand expectations and participate effectively throughout an investigation.

Capital Power recommends the MSA address the aforementioned concerns through further stakeholder engagement to develop workable options for industry and the MSA.

Should you have any questions regarding this response, please do not hesitate to contact me directly.

Kind regards,

Signed by:


Stefania Cerisano

VP, Compliance & Chief Compliance Officer, Capital Power

CC: Matt Davis, VP, Government Relations
Tracy Coutts, Sr. Specialist Regulatory Compliance
Kayla Liu, Sr. Specialist, Regulatory & Policy



April 16, 2026

Market Surveillance Administrator
#600, 440 – 2 Ave SW
Calgary, Alberta T2P 5E9

Attention: Mike Morganton, Executive Director, Enforcement

Dear: Mr. Morganton

Re: Comments Related to Draft Investigation and Enforcement Process

On February 27, 2026, the Market Surveillance Administrator (MSA) published a Draft Investigation and Enforcement Process (IEP). Enfinite submits the following comments regarding the Draft IEP:

1. **Compliance Forms** – Section 4.1.1 of the IEP encourages market participants to use forms included on the MSA's website when submitting self-reports. Enfinite is of the view that updating the *Compliance Process 2020* to the IEP also requires the MSA to update the Self-Reporting and Mitigation Plan Forms for ISO Rules and Reliability Standards. Can the MSA please provide a timeline for when market participants can expect these forms to be updated?
2. **Summary Investigation Process** – Section 4.1 of the IEP provides guidance and expectations regarding the information and level of detail that market participants should include when submitting a self-report. This sets the expectation that a self-report should contain all the relevant information related to a contravention. Section 6.2.1 of the IEP states that a notice of investigation will be issued for straight-forward self-reports and referrals. These notices will set a deadline of at least 30 days after the date of notice to voluntarily provide any additional information.

At the March 19, 2026 technical meeting, the MSA noted that if a market participant replies to the notice of investigation that it has no additional information to submit, the MSA will still hold the matter until the 30 days have passed before continuing to process the matter. Enfinite is of the view that the if a market participant waives its right to submit any additional information prior to the 30 day deadline provided in the notice of investigation, the MSA should continue to process the matter rather than wait until the comment window has closed. This will potentially allow files to be closed sooner.

3. **Extended Investigation Process** – Section 6.3.2 of the IEP allows market participants to voluntarily provide additional information or records early in an investigation. Enfinite notes that unlike Section 6.2.1 the MSA does not set a minimum deadline to provide information. To mirror the summary investigation process, Enfinite recommends adding the minimum



deadline of at least 30 days for market participants to voluntarily provide any additional information as part of the extended investigation process.

4. **ISO Rule Mitigation Plans** – The requirement to submit mitigation plans has been historically tied to the AUC Rule 027, where an accepted mitigation plan would provide market participants with a 25% discount on any notice of specified penalty (NSP). Enfinite recommends the MSA provide more clarity and guidance with respect to its expectation for when mitigation plans should be submitted for ISO Rules self-reports or referrals.

Enfinite appreciates the opportunity to provide feedback on the MSA's Draft IEP. Please contact the undersigned if you have any questions regarding this submission.

Sincerely,

A handwritten signature in black ink that reads 'Jecielle Alonso'.

Jecielle Alonso

Manager – Regulatory



ENMAX Corporation
141 – 50 Avenue SE
Calgary, AB T2G 4S7
Tel (403) 514-3000
enmax.com

April 16, 2026

Market Surveillance Administrator
440 2 Ave SW
Calgary, AB T2P 5E9

Dear Mr. Olmstead,

ENMAX Corporation (ENMAX) appreciates the opportunity to provide feedback on the MSA's draft Investigation and Enforcement Process (IEP) which was published on February 27, 2026.

ENMAX has reviewed the MSA's draft IEP and has the following comments:

- 1. Additional Clarity on the Acceptable Level of Detail Contained Within Self-Reports and Associated Reporting Timelines** – While ENMAX appreciates that determining the appropriate level of information from a market participant is subject to MSA discretion and differs from case-to-case, ENMAX is keen to find additional efficiencies to improve our existing processes around self-reports, which will lead to more streamlined efforts and better industry outcomes as a result. As such, ENMAX would like to better understand from the MSA the required level of granularity of provided information, as well as the associated timelines for summary and extended investigations.

Additionally, while ENMAX appreciates the speed of reporting that is required in some compliance cases, there is a trade-off between the speed of reporting and level of detail that may be provided under tight timelines. As it takes time to investigate the cause of a non-compliance, ensuring adequate time is provided for information gathering pertaining to a contravention will allow for a more efficient investigation process and effective mitigation planning for both the contravening party and industry as a whole as information is shared among participants.

2. **Clarity on the Reporting Forms** – The current reporting documents listed on the MSA’s website show specific self-report forms for both ARS contraventions and ISO rules contraventions; however, the MSA has only provided one form to report mitigation actions. ENMAX is seeking confirmation that the MSA will accept the current mitigation report form for mitigation actions taken regarding both ARS and ISO rule contraventions.

Additionally, the current language within the self-report forms does not reflect the changes being proposed by the MSA, specifically regarding the removal of the 30-day reporting requirement window. It is ENMAX’s understanding that the current self-report forms will be updated to reflect all proposed changes.

3. **Provisions to Request Meetings with the MSA During Investigations** – ENMAX appreciates the MSA’s openness to meet with market participants while an investigation is ongoing to discuss issues relevant to the investigation. While we recognize these meetings will be at the discretion of the MSA, further defining certain circumstances where a meeting would be warranted would lead to improved processes and regulatory efficiency. At present, there are situations in which a minor contravention may occur that has minimal or no risk to the grid but could result in a penalty. In these cases, an advanced notice of investigation and a meeting with the MSA would be very valuable. It may be helpful to establish guidelines around what impact thresholds would warrant an MSA meeting.

As mentioned in our previous comments, the MSA’s framework has resulted in acceptable compliance practices and industry outcomes to date, and we support enhancements to the IEP to build on the well-established compliance functions already in place.

Sincerely,

Mark McGillivray
Director, Public Policy and Government Relations
ENMAX Corporation



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Edmonton, Alberta
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April 16, 2026

Market Surveillance Administrator
600, 440 2nd Avenue S.W.
Calgary AB, T2P 5E9

Attention: Derek Olmstead
Administrator & CEO
Market Surveillance Administrator

Dear Derek Olmstead,

Re: Feedback on the Draft Investigation and Enforcement Process

EPCOR Distribution & Transmission Inc. (EDTI) appreciates the opportunity to provide feedback on the MSA's Draft Investigation and Enforcement Process (IEP) released on February 27, 2026.

EDTI acknowledges the MSA's feedback as well as its incorporation of stakeholder input in the IEP. As part of this process, EDTI proposes revisiting the treatment of MSA reporting expectations and integrating them directly into the IEP rather than addressing them through parallel or subsequent mechanisms. Integrating the communication of MSA considerations and factors within the IEP would ensure greater transparency through rationale-sharing, and communication of determinations are applied consistently (to the extent possible) across severity assessments, forbearance decisions, and mitigation plan outcomes. EDTI believes that this approach would offer clearer guidance for market participants, and promote a more predictable and efficient compliance framework.

With respect to Section 7.1.3, *Reliability Standard Contravention Severity*, the IEP identifies a non-exhaustive set of considerations that the MSA may rely upon when determining the severity of a contravention. EDTI requests further clarification – reflected within the process itself – that the considerations and criteria applied in reaching a determination on the severity of a contravention will be communicated to market participants. Providing additional detail or establishing a mechanism through which the basis for these determinations is shared would support improved quality of future submissions and mitigation activities.

In Section 8, *Forbearance*, the IEP outlines the factors that the MSA may consider when determining whether forbearance is appropriate. While the section indicates that the MSA will advise Market Participants of its decision, it is unclear whether the MSA will also provide insight into the basis for that decision. EDTI requests further clarification on whether the MSA intends to communicate the rationale underlying its forbearance determinations,



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as greater transparency in this area would assist market participants in understanding how the MSA applies the forbearance framework and, in turn, support more consistent compliance outcomes.

Finally, EDTI seeks clarification regarding the expectations set out in Section 7.1.4, *Acceptance of Mitigation Plans*. Specifically, confirmation as to whether the process explicitly contemplates engagements between the MSA and Market Participants prior to the MSA issuing a Notice of Specified Penalty (NSP) where a mitigation plan is rejected. In circumstances where a mitigation plan is rejected, EDTI would appreciate additional guidance from the MSA on the required next steps Market Participants should take to address the status of the contravention. This would support consistent and effective compliance and reporting.

Please contact the undersigned if you have any questions with respect to this submission.

Sincerely,

Rajveen Gill
Manager, Transmission Regulatory Affairs
EPCOR Distribution & Transmission Inc.

Mike Morganton

From: Salman Muheb <[REDACTED]>
Sent: Wednesday, April 15, 2026 3:11 PM
To: MSA Stakeholder Consultation
Cc: Don Metz; Joanne Lipinski; Isabel Pana
Subject: Suncor Feedback - Draft Investigation and Enforcement Process (IEP)

Good afternoon,

Suncor Energy Inc. (Suncor) would like to thank the Market Surveillance Administrator (MSA) for the opportunity to provide feedback on the **Draft Investigation and Enforcement Process**, as published in the Notice dated February 27, 2026.

We appreciate MSA's continued engagement with market participants and the transparency demonstrated through this consultation process.

Please find our feedback in the table below, which outlines our observations and comments on specific aspects of the draft document.

| Draft Investigation and Enforcement Process (IEP) | Suncor Feedback (Proposed for MSA Consideration) |
|--|---|
| 4.1.1 – MSA timelines on revised SR/MP forms | Suncor seeks clarification on the MSA's intent regarding timelines associated with updated Self-Report (SR) and Mitigation Plan (MP) forms. |
| 4.1.4 Mitigation plan, (2) Completion of a mitigation plan – Spot Audit | Suncor seeks clarification on MSA's notification timelines for when a spot audit may be requested. |
| 7.1.2 Self-report discount | Suncor requests additional clarification on MSA's criteria for determining discount, specifically the circumstances under which a discount may not be considered applicable to a self-report. |
| 7.1.4 Acceptance of mitigation plans | Suncor requests clarification on MSA's expected timelines for reviewing and determining whether an entity's mitigation plan meets MSA evaluation factors. In particular, Suncor is seeking guidance on the amount of time MSA requires to determine whether mitigation plan timelines or associated milestone activities are deemed acceptable. |
| Self-Report Form | Suncor requests that the MSA consider revising the 30-day self-reporting timeline to commence from the date of discovery , rather than the date the contravention began, to better align with how issues are typically identified. |

| | |
|-----------------------------|---|
| Self-Report Form | If revising the 30-day trigger is not feasible, Suncor suggests considering an update to the field wording to read: <i>“If this Self-Report is not submitted within 90 days from the date the contravention began, please provide the reasons for the delay.”</i> |
| Mitigation Plan Form | Suncor asks whether the MSA would consider adding a checkbox to indicate when a mitigation plan is associated with an audit referral , to improve clarity and tracking. |
| General | Can MSA provide guidance on evidence retention requirements for ARS and ISO Rules? When NERC standards are adapted in Alberta, the evidence retention section is removed. Therefore, clarification on applicable retention expectations would be helpful. |

We thank the MSA for considering our feedback and for the opportunity to contribute to this consultation. Should you have any questions or require clarification on any of the points raised, we would be pleased to engage further.

Thank you,

Salman Muheb

Specialist Regulatory Compliance Advisor
Electrical Regulatory Compliance (ERC)

MS Teams: [REDACTED]
Cell: [REDACTED]

