

A surge of initiatives: developments in Alberta power and electricity policy to watch in 2024

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In 2023, there was a surge of initiatives across Alberta's power and electricity landscape. Many of these initiatives are ongoing and will introduce significant change to Alberta's power and electricity framework and markets in 2024 and beyond.

This Update summarizes some key ongoing developments to keep an eye on in the coming months.

AUC inquiry into the ongoing economic, orderly and efficient development of electricity generation in Alberta

We have reported on the Alberta Utilities Commission's (AUC) inquiry regarding electricity generation in prior Updates: [Government of Alberta pauses new renewable energy project approvals](#), [Update to the Government of Alberta pause on new renewable energy project approvals](#) and [Alberta Utilities Commission provides update regarding inquiry into development of electricity generation](#).

As we reported, on August 3, 2023, the Alberta government enacted the [Generation Approvals Pause Regulation](#), which immediately paused AUC approval of new renewable electricity generation projects until February 29, 2024. On the same day, by [Order in Council 171/2023 \[PDF\]](#) (OIC), it directed the AUC to conduct an inquiry regarding policies and procedures for the development of renewable electricity generation (the inquiry).

The AUC established two separate modules for its consideration of the issues identified by the Alberta government in the OIC: [Module A](#) and [Module B](#). Module A is exploring the land impact issues, while Module B is exploring considerations of the impact that the increasing growth of renewables has to both generation supply mix and electricity system reliability. The inquiry will culminate in reports to the Alberta Minister of Affordability and Utilities to assist with the Alberta government's intent to develop new policy frameworks.

Module A (AUC Proceeding 28501)

In this proceeding, the AUC is considering (i) the development of power plants on specific types or classes of agricultural or environmental land; (ii) the impact of power plant development on Alberta's viewscapes; (iii) the implementation of mandatory reclamation security requirements for power plants; and (iv) the development of power plants on lands held by the Crown in right of Alberta.

The AUC commissioned a number of expert reports related to the land impact issues covered in Module A. On November 10, 2023, the AUC released the expert reports, which included discussion on the following matters:

- recommendations for a proposed process to identify and assign value to all agricultural land in Alberta
- recommendations for mitigating impacts of renewable energy development on agricultural land
- literature review on the potential impacts of power plant development on viewscapes
- review of power plant end-of-life decommissioning and reclamation security requirements in other jurisdictions
- review of closure standards for power generation sites
- recommendations for implementing a framework for end-of-life security
- recommendations for implementing mandatory reclamation security requirements for power plants in Alberta, as part of the regulatory review process of applications for new power

The AUC's information-gathering portion for Module A included written submissions from stakeholders and an oral hearing in December 2023, which included AUC questioning of stakeholders and experts.

The AUC has indicated that it intends to deliver a report for Module A to the Minister of Affordability and Utilities by the end of January 2024.

Module B (AUC Proceeding 28542)

In this proceeding, the AUC is considering the impact that increasing growth of renewables has on both the generation supply mix and electric system reliability.

Module B is ongoing. The AUC has retained an independent consultant to conduct a future market outcome analysis, reflecting different generation demand and supply scenarios and assessing the impacts on supply adequacy and customer bills over the long term (at intervals up to 2040), based on the current Alberta energy-only market design and framework. The AUC also retained a second consultant to conduct an assessment of the attractiveness of the Alberta power market, including current perceptions and sources of capital, views on market structure changes, appetite for merchant power risk and the drivers behind these perceptions. These reports will be released on February 7, 2024, followed by a technical meeting. Interested parties will have an opportunity to provide written submissions by February 29, 2024.

The AUC will deliver a final report on Module B to the Minister of Affordability and Utilities no later than March 29, 2024.

Alberta pushback on federal *Clean Electricity Regulations*

As part of Canada's plan to achieve net-zero emissions by 2050, the Government of Canada released a draft of the *Clean Electricity Regulations* (CER), which it plans to enact in 2024. The federal government's comment period on the draft CER closed on November 2, 2023. A final version of the CER is expected to be published in 2024 and to become effective in 2025.

As we discussed in our earlier [blog post](#), the CER would effectively prohibit electricity generation that is not low-/non-emitting as of 2035. The CER have drawn the ire of several provinces, including Alberta, who view the CER as an intrusion on provincial jurisdiction over electricity.

The Alberta government's *Throne Speech*, delivered on October 30, 2023, indicated that if the federal government "continues down its current path" of requiring a net-zero power grid by 2035, the Alberta government would introduce motions under the *Alberta Sovereignty within a United Canada Act* [PDF] (the Sovereignty Act), detailing provincial initiatives and legislation to "protect Albertans from these unconstitutional and harmful policies."

On November 3, 2023, the Alberta government released its response to the CER, titled "[Federal Draft Clean Electricity Regulations: Government of Alberta Technical Submission](#)" [PDF] (Alberta technical report) outlining what it considers "the severe consequences that [the CER] will impose on Albertans," including increased power bills, job losses, a compromised grid and health and safety risks when blackouts occur. The Alberta technical report encourages the federal government to "endorse Alberta's approach" to "work to achieve carbon neutrality by 2050, while maintaining energy affordability and reliability." In support of Alberta's position, the Alberta technical report outlines

1. Alberta's emissions reduction plan to achieve carbon neutrality by 2050 while maintaining energy affordability and reliability
2. a list of flaws with the proposed CER
3. a list of concerns related to faulty and inadequate federal modelling and impact assessments
4. the federal government's failure to offer adequate funding for Alberta to reduce emissions

On November 27, 2023, Premier Smith introduced a motion in Alberta's legislative assembly for approval of a resolution under the Sovereignty Act that would require (i) all provincial entities not to recognize the constitutional validity of, enforce or cooperate in the implementation of the CER in any manner to the extent legally possible; and (ii) Alberta to use all legal means necessary to oppose the CER, including through legal challenges. The motion also calls for exploring the feasibility of a provincial Crown corporation to achieve Alberta's provincial electrical system objectives, which include maintaining a reliable and affordable supply of electricity. Premier Smith stated in press interviews that the proposed Crown corporation would build new natural gas plants, or buy existing ones, with the aim of keeping electricity abundant and affordable. Debate on the proposed resolution has been adjourned and may resume when the Alberta legislature resumes sitting in late February 2024.

AESO Market Pathways and Direction to Report on Market Recommendations

In 2023, the AESO also initiated a "market pathways" consultation process to evaluate the sustainability of the Alberta Interconnected Electric System's (AIES) existing market structure

and to identify “pathways” to inform its market design, in light of changes that are expected to transform the AIES in coming years. The outcome of the market pathways initiative will be informed by policy directions from the Alberta government and the inquiry (discussed above).

The AESO launched the market pathways consultation in June 2023 and invited written feedback on its Market Pathways Primer (the Primer) in August 2023. The Primer set out three main factors driving change in the AIES:

1. changing supply mix
2. supply integration pace and the impact on the transmission system
3. underlying gaps in the existing market design

The primer also set out the AESO’s then-proposed consultation process and identified issues to be addressed through the process, including system inertia, primary frequency response, ramp-up capacity, ramp-down capacity, uncertain controllability of supply, congestion management, voltage regulation capability, long-term supply adequacy, supply surplus and short-term supply adequacy. These issues demonstrate the range of impacts brought by changes to the AIES.

Following stakeholder input on the Primer, the AESO hosted an industry update session on October 17, 2023, announcing a significant shift in its process in light of the direction it received from the Minister of Affordability and Utilities to provide a recommendation report on market incentives, design and the role of new dispatchable technologies by February 1, 2024. To inform its recommendations to the Minister, the AESO established an executive working group (EWG) with representation from across the industry to provide input in dedicated sessions held in a two-month “sprint” period from mid-October through the end of November 2023.

On November 30, 2023, the AESO held a stakeholder symposium where it shared a high-level summary from the EWG with all stakeholders. The AESO identified the key objectives serving as a focus for its report as reliability, affordability, decarbonization by 2050 and reasonable and realistic implementation. The AESO indicated that the EWG was in general agreement with these objectives and also identified the recognition of customer choice, need for investability, alternative decarbonization timelines and transition considerations. The AESO’s consultation included consideration of three straw market structures: (i) energy only; (ii) capacity contracts; and (iii) integrated resource planning. The AESO reported that its survey of industry regarding which of the straw models would best achieve the identified objectives indicated that generally the energy-only market ranked highest amongst survey respondents.

The AESO invited written feedback, including on which straw market model overall best achieves the AESO’s four identified objectives, by mid-December 2023. However, the AESO’s report will be provided to the Minister without industry input on the report itself.

Future steps in the AESO’s market pathways initiative will depend on policy direction from the Alberta government following the submission of the AESO’s recommendation report. The AESO has indicated that it anticipates the next phases will include determination of detailed design options that align with the government’s policy direction and evaluation of detailed design options with stakeholders, followed by detailed design and recommendations finalization. The AESO anticipates the timeline for these future phases to be advanced throughout 2024 and completed by Q2 2025.

Transmission Policy Review

On October 23, 2023, Alberta's Ministry of Affordability and Utilities published a discussion paper, "Transmission Policy Review: Delivering the Electricity of Tomorrow" (Policy Review), providing its current analysis of transmission policies. The Policy Review acknowledges the many changes that have occurred in the 20 years since the *Transmission Regulation* was established in 2004. It was released in tandem with a public survey soliciting input to inform Alberta's review of the *Transmission Regulation*.

The Policy Review presents Alberta's current analysis of transmission policies and a proposed anticipated policy direction in several areas, including

- **Generating Unit Owner's Contribution (GUOC):** To ensure that GUOC provides sufficient locational price signal to new generators to drive efficient use of existing transmission capacity and mitigates the transmission costs passed on to consumers, the Policy Review identifies the anticipated direction to be removal of the current prescribed GUOC maximum and minimum rates, while maintaining refundability.
- **Line Losses:** To address deficiencies in the existing line loss calculation, the Policy Review's anticipated direction is shifting to a system-wide average approach, where a loss factor for the entire system would be calculated each year and charged to each generator and electricity importer using the system.
- **Non-Wires Solutions:** The Policy Review identifies an opportunity to expand the use of non-wires solutions (such as distributed generation, energy storage and others) to manage transmission costs. The Policy Review indicates an anticipated direction where non-wires solutions may be procured both as services through a competitive process for short-term contracts and as regulated assets.

The Policy Review also identifies other policy areas warranting further consideration, changes to which would require significant consideration as they are interrelated to Alberta's wholesale energy market policies. The Policy Review does not identify an anticipated policy direction on such issues but instead invited stakeholder feedback, including on the following:

- **Zero-Congestion Policy:** The Policy Review identifies that changes to the generation supply mix and new technologies warrant examining Alberta's current zero-congestion policy (which enables 100% of all in-merit energy to be transmitted under normal conditions and 95% under contingency conditions). The Policy Review identifies optimal transmission planning or increasing the allowable congestion level as possible adjustments.
- **Cost Allocation for Transmission – Wires:** The Policy Review also identifies the need to review Alberta's load-pays policy (assigning the majority of transmission costs to loads rather than generators) due to, among other things, transmission investment driven by new generation. Alternatives identified for consideration are (i) the creation of transmission rights; (ii) an alternative cost sharing framework that would split wires costs between load and generation, shifting more costs to generators; and (iii) amendments to the ISO rules and/or *Transmission Regulation* to redefine costs incurred in the connection process from system costs to interconnection costs.

The Policy Review also invites feedback on issues related to the cost allocation for ancillary services and policy changes to achieve intertie development.

The Minister of Affordability and Utilities has indicated that the feedback from the Policy Review will guide Alberta's path of action for Alberta's transmission policy. Stakeholders can anticipate that these developments will continue in 2024.

AESO Energy Storage Tariff

In February 2023, the AESO launched an Energy Storage Tariff Module to consider energy storage (ES) tariff treatment and ensure that the ISO tariff is not a barrier to ES development. Currently, ES charging load is treated like any other load under the ISO tariff, which does not reflect the unique circumstance that ES stores the energy for later discharge while other load customers consume the load.

From May to September 2023, the AESO consulted with stakeholders on various tariff solutions, including the development of an Energy Storage Attraction Service (ESAS) and amending the Demand Opportunity Service (DOS) requirements to make it more attractive for ES projects. Rate DOS is currently intended to be interruptible, temporary and available only when there is surplus transmission capacity at the requested point of delivery.

Following additional stakeholder feedback, the AESO has indicated that there is broad support for an update to the Rate DOS. The AESO has indicated that it considers that enhancements to the technology-agnostic Rate DOS with the intent of making incremental improvements to the rate ahead of a future review of the overall ISO tariff is the most viable option. A key consideration is that any tariff amendments would not incent customers who would otherwise pay Rate DTS (Demand Transmission Service) to reduce contributions to the overall revenue requirement by switching to a new Rate DOS.

The AESO continued to meet with stakeholders in December 2023 and January 2024 and anticipates filing an application with the AUC for approval of an amended Rate DOS. Proposed amendments to the existing Rate DOS may include

- amending the eligibility criteria for Rate DOS (removal of the requirement that it must be temporary or for repeated short-term use)
- allowing the AESO to retroactively recover amounts from those found not eligible for DOS
- adjustments to the priority and curtailment response times for Rate DOS
- adjustment of the DOS term to longer terms, such as 3 to 5 years
- adjustments to the contribution to fixed (bulk and regional) system costs by Rate DOS

The AESO will be holding an information session on DOS on February 13, 2024, and anticipates filing an application with the AUC in March 2024.

Conclusion

Canadian jurisdictions from coast to coast to coast are planning for aggressive growth of their electricity supply to meet increased electrification demands in support of economy-wide carbon reduction targets and are experiencing transitional impacts arising from changes in generation supply mix. Alberta is no exception.

The imposition of restrictions on investment in emitting sources of electricity generation, significant investment in renewable generation, and the entrance of new market participants

are causing the Alberta government to review all aspects of electricity generation and transmission policy. As detailed above, electricity policy changes anticipated in 2024 could have far-reaching impacts on the current Alberta market structure and associated implications for generators and utilities.

Osler will continue to monitor these developments closely. Our firm has extensive experience providing advice to utilities and generators both in Alberta and in jurisdictions across Canada. If you have any questions regarding the implications these ongoing policy developments, please contact a member of the Osler Regulatory or Energy groups or the authors of this article.