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# MSA REPORT

**TransAlta Complaint: Preliminary  
Assessment Pertaining to the December  
1, 2004 Notice on Outage Disclosure**

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**21 October 2005**

**MARKET SURVEILLANCE**  
ADMINISTRATOR

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## 1 INTRODUCTION

The Market Surveillance Administrator (“MSA”) was established under the Electric Utilities Act of Alberta (“EUA”), and has a broad mandate of surveillance and investigation around all aspects of the province’s electricity markets. Pursuant to its mandate, the MSA seeks to ensure the “*fair, efficient and openly competitive*” operation of the market.

The MSA, as part of its mandate, may establish guidelines in furtherance of the market. In this regard, the MSA published the “Trading Practices Guideline” (“TPG”) on February 18, 2004, concerning the use of asset outage information for trading in the forward market.

The TPG provides that:

*Market participants must not trade on the basis of known but not public information about the status of supply, load or transmission assets that can reasonably be expected to have a material impact on market price. Trading shall be understood to include any type of financial or physical transaction or operational strategy designed to extract value from known but not public information about the status of supply, load, or transmission assets.*

In the view of the MSA, the potential for trading on future outage information that is not in the public domain creates the perception and/or reality of unfairness in the market and may, if acted upon, provide the holder with an unfair competitive advantage. It is analogous to insider trading in the securities markets. Such conduct therefore negatively impacts the fair, efficient and openly competitive operation of the market. The TPG was established to clearly set out the view of the MSA in this regard.

The Information Disclosure Procedure (“IDP”) was developed and implemented in support of the TPG. The purpose of the IDP is to assist market participants with their TPG compliance requirements by facilitating the disclosure and publication of outage and derate information. The nature of the TransAlta complaint deals primarily with the timing of information disclosure related to the IDP.

This report is the result of a Preliminary Assessment undertaken by the MSA pursuant to the *MSA Investigation Process and Assessment Guidelines* in respect of a complaint received from TransAlta Corporation (“TransAlta”) dated May 9, 2005. In the complaint letter, TransAlta asserted the following:

“As identified in our previous communications, PPA Buyers were generally refusing to notify the PPA Owner when an outage was communicated to the AESO, effectively freezing the PPA Owner out of the [forward]<sup>1</sup> market. Although this situation has improved, there are still significant lags in this communication that “freeze out” the PPA Owner

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<sup>1</sup> Added by the MSA.

from the trading market resulting in significant financial impact on PPA Owners.”

The complaint was submitted pursuant to a Notice published by the MSA on December 1, 2004. The purpose of the Notice is discussed in section 2 of the report.

TransAlta provided a number of examples of situations to illustrate its concerns. TransAlta further asserted that:

“Providing one market participant with the ability to prevent another participant from participating in the Alberta electricity market is not in keeping with a “fair, efficient and openly competitive market”.

Based on the Notice, TransAlta requested that the MSA either obtain copies of the PPA Owners outage communications to PPA Buyers or in the alternative modify or repeal the TPG. As indicated in the Notice, outage information obtained directly from PPA Owners would be available for preparing outage reports. Accordingly, the MSA would take the view that the information had been sufficiently disclosed from the perspective of the TPG/IDP, effectively allowing both the PPA Owner and Buyer to trade in a manner compliant with the TPG.

Based on TransAlta’s complaint and pursuant to the *MSA Investigation Process and Assessment Guidelines* the MSA conducted a Preliminary Assessment to determine whether the MSA should proceed to an informal or formal investigation. In the course of conducting the Preliminary Assessment, the MSA also considered three other questions related to TransAlta’s complaint including:

1. Are PPA Buyers meeting the requirements set out under the December 1, 2004 Notice to PPA Owners?
2. Is the communication process consistent with a “*fair, efficient and openly competitive*” market?
3. What factors can be addressed to improve the overall quality and efficiency of the communication process?

This report is issued to provide additional guidance to market participants around the TPG/IDP and related matters. As described below the MSA has determined that the appropriate outcome in respect of this matter should include publication of the Preliminary Assessment, in concert with the specific findings. Under the circumstances, the MSA believes that naming the parties involved in matters described in the report would benefit the market by providing additional insight into how the MSA views the process of disclosing and communicating outage information.

## 2 BACKGROUND

This section identifies background information which was considered by the MSA with respect to the matters addressed in this report. The background information provides the framework which describes the rationale for the TPG and its implementing mechanism; the IDP.

### 2.1 Framework for the TPG/IDP

#### Electric Utilities Act (“EUA”)

Section 6 of the Act requires that market participants conduct themselves in a manner that supports the fair, efficient and openly competitive operation of the market.

#### Trading Practices Guideline (“TPG”)

The TPG is a guideline established in accordance with s. 49(4) of the Act, and in effect sets out how the MSA views the fair, efficient and openly competitive operation of the market in the context of trading around outage information. The TPG was published by the MSA on February 18, 2004 as part of a report titled MSA Trading Practices Guideline.<sup>2</sup>

#### Information Disclosure Procedure (“IDP”)

In order to facilitate the ability of market participants to readily comply with the TPG, the MSA and market participants implemented an Information Disclosure Procedure (“IDP”) through which outage disclosure would be made, and through which the timing of that disclosure would be established.<sup>3</sup> The IDP utilizes existing disclosure protocols under the ISO rules established pursuant to the Act.

#### December 1, 2004 Notice (“Notice”)

The MSA published a Notice to market participants on December 1, 2004 which addresses potential communication issues that may occur between PPA Owners and Buyers in the context of the TPG and IDP. In effect, the MSA recognized that it would be inappropriate for an Owner, having made the Buyer aware of an outage, to be left uncertain as to when the Buyer has disclosed to the AESO. The MSA indicated in the Notice that, should an Owner complain that their Buyer was failing to inform them on **a timely basis** [emphasis added] of an outage disclosure; a preliminary assessment would be initiated under the MSA Investigation Process and Assessment Guidelines.

#### Discussions with PPA Buyers

Prior to and subsequent to publication of the Notice, the MSA held discussions with PPA Buyers including Enmax (“Enmax”), EPCOR (“EPCOR”) and TransCanada (“TransCanada”) (collectively “PPA Buyers” or “Buyers”) concerning the timing around when the Buyers submit confirming notices to the Owner that outage information had been submitted to the AESO. Two of the PPA Buyers indicated they would send a confirmation to the Owner in a timely manner

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<sup>2</sup> <http://www.albertamsa.ca/TradingPracticesGuidelinesandInformationDisclosureProcedure.html>

<sup>3</sup> Ibid.

after submitting outage information to the AESO. One party indicated that they would send the confirmation in a timely manner but in no case more than 30 minutes after submitting the information to the AESO. This report essentially tests the extent to which Buyers fulfilled their commitments.

MSA Investigation Process and Assessment Guidelines

The objectives of conducting a Preliminary Assessment pertaining to this matter are to determine:

- Whether the issue should proceed under a formal or informal investigation.
- If the investigation is to be formal, the extent to which the proceedings should be made public.

Operating Policy and Procedure 601 (“OPP 601”)

Pursuant to the IDP, an outage is to be disclosed to the AESO in accordance with OPP 601 of the ISO Rules. Insofar as the TPG is concerned, the outage is deemed to have been made public at the point of disclosure to the AESO under OPP 601 such that a party can appropriately trade around the outage. Key provisions which pertain to the IDP include:

- Paragraph 3.1 specifies that the outage coordination process applies to generating units or plants with installed capacities of 40 MW or higher.
- Paragraph 4.3 provides that the requirements for generation outage scheduling also apply to generation de-rates exceeding 40 MW. In addition, 4.3 provides that outage and derate information should be submitted “as soon as possible” after the decision is made to change the initial schedule or correct an anomalous operating situation.

ISO Rule 3.5.1

ISO Rule 3.5.1 Daily Offers and Bids specify a number of provisions concerning short term adequacy. The following provisions are applicable:

- A pool participant with a generating asset 5 MW or greater will submit to the ISO for each settlement interval in the forecast scheduling period:
  - a) An offer within the seven blocks, and
  - b) The total declared energy.
- Total declared energy may change only for an acceptable operational reason and at all times will equal or exceed the total energy of the seven block offer.
- Total declared energy, notwithstanding the submission of a seven block offer, will be submitted to the ISO for each settlement interval in the declared supply shortfall energy category, reflecting

the operating characteristics of the asset, even if the amount is zero.

## 2.2 Evolution of Outage Reporting

The TPG sets out the views of the MSA with respect to the use of non-public information for trading purposes. The IDP was introduced as a method to allow generation outage information to be made public in a relatively straightforward manner.

The IDP was initially based on e-mails already required to be submitted by STS contracting parties pursuant to OPP 601. The e-mails were used by the MSA to create outage graphs that would act as a way to make information about outages public yet at the same time preserve the identity of generating units that were being affected by planned and forced outages. Due to time lags inherent in the submission and publication process associated with the e-mail system, it was only possible to publish outage reports three times a day on weekdays with no publication on weekends.

As outlined in the December 1, 2004 Notice from the MSA, an additional time lag was occurring in the flow of information from PPA Buyer to Owner. This time lag created a possible disadvantage to PPA Owners as they may not be aware of exactly when the outage information had been submitted by a PPA Buyer and “deemed” public for the purpose of trading in the forward market.

A method that supported a near real-time dissemination of information was seen as desirable from the perspective of both the MSA and the market participants. As a result, the MSA supported using Total Declared Energy (“TDE”) values in order to build the outage graphs and automating the report creation and publication. The TDE process was developed in December 2004 and used for the OPP 705 short term adequacy assessments.

A small change in OPP 601 enabled participants to use TDE values as a way to submit outage information to both the AESO and the entire market. This new disclosure mechanism was seen as a substantial improvement from the previous e-mail method.

The ISO Rule 3.5.1 provides the foundation for OPP 705 and states:

“...**Total declared energy**, notwithstanding the submission of a seven block offer, will be submitted to the **ISO** for each **settlement interval** in the declared supply shortfall energy category, **reflecting the operating characteristics** [emphasis added] of the **asset**, even if the amount is zero...”.

In effect, ISO Rule 3.5.1 requires participants to reflect asset operating characteristics for each settlement interval. This was communicated to the market as requiring the TDE to be kept current and reflect the physical capability of generating units for each hour. MSA staff monitors TDE entries to ensure this reporting is being done by participants in a timely and accurate manner.

The official changeover to the TDE process occurred on July 4, 2005. However, participants were asked to submit both e-mails and TDE values from April 18, 2005 to July 3, 2005 while system testing was being performed to ensure the efficacy of the TDE based reporting system. During this dual submission period, the outage graphs were produced by the MSA using the e-mail data provided by pool participants. The MSA maintains a database of all previous e-mail records and has ready access to the TDE entries in order to support investigations relating to the TPG.

As a feature of the TDE system, a “receipt” is issued to the submitting participant after each submission in order to document the nature of the information and when it was communicated to the AESO. It was suggested by the MSA that by forwarding these “receipts” to PPA Owners, the PPA Buyers would easily be able to inform the Owners and meet the expectations as set out in the MSA December 1, 2004 Notice.

Further, the MSA requested that the AESO implement a more effective and automated method of communicating the confirmation of a TDE submission to a PPA Owner. Consequently, an e-mail system is under development by the AESO that will automatically confirm receipt of a TDE submission from the PPA Buyer to both the Buyer and Owner at the same time. This will assure the parties that outage information has been sufficiently disclosed so as to allow both PPA Owner and Buyer to then trade in a manner compliant with the TPG and the *fair, efficient and openly competitive* operation of the market.

### **2.3 Prior Preliminary Assessment**

The MSA conducted a Preliminary Assessment during the first half of 2005 which examined the flows of information between PPA Owners and Buyers and trading activity surrounding three outages and whether the parties were compliant with the TPG. Several findings and recommendations in that assessment are relevant to this report.

In general the parties appeared to be compliant with the TPG; however, there were some specific events that were of concern to the MSA including:

- In terms of communication flows between PPA Owners and Buyers, one party was conforming to the December 1, 2004 Notice by providing a confirming e-mail to the Owner and one party was not.
- The MSA found that the parties generally failed to record the trade time associated with trading activity. Trade time refers to the time, to the minute, when a trade is executed. In order to obtain trade times, it was necessary to access audio recordings of telephone conversations which proved to be a time consuming and laborious task. The lack of trade times creates an unwarranted level of difficulty with respect to assessing whether a party’s trading activity is in compliance with the TPG.



A possible follow-up to this Preliminary Assessment could have been to review the trading records of the parties to determine if trading activities occurred in a manner which was consistent with a “*fair, efficient and openly competitive*” market. Because the MSA has not seen anything in the data received, related to this Preliminary Assessment to cause the MSA to be suspicious, the MSA did not pursue this line of review. However, the market needs to continue to be reminded that they have not, to date, shown adequate record keeping. When the MSA does find occasion to review trading records we will require time and date information.

### 3 METHODOLOGY

This section briefly describes the methodology the MSA used to conduct this Preliminary Assessment and includes discussions concerning information gathering and review, framing the issues and constraints.

#### 3.1 Information Gathering and Review

The TransAlta complaint letter identified four examples of communication flows where the elapsed time - from the initial submission to the PPA Buyer to the time when TransAlta receives a confirmation back from the Buyer - ranged from 31 minutes to 24 hours. Discussions with TransAlta representatives suggested that there were many other examples of lengthy time delays. Based on the complaint letter, discussions with TransAlta and the importance of this matter, the MSA determined that it should move forward with the Preliminary Assessment. Accordingly the MSA sent an Information Request (“IR”) to TransAlta<sup>4</sup> requesting details of all examples of the “problem” for the period December 1, 2004 to and including May 24, 2005. TransAlta provided a number of examples of events between December 22, 2004 and May 21, 2005 where it believed there was an excessive amount of time from when the outage information was sent to the PPA Buyer to the time that it received confirmation from the Buyer that the information had been submitted to the AESO.

The MSA examined the communication flows and decided to focus attention on the March 1, 2005 to May 31, 2005 time period as the outage information provided by TransAlta was predominantly for this period. Furthermore, the period of time corresponds to a period when all of the PPA Buyers referred to in section 2.1 had indicated they would provide confirmation to Owners in a “timely” manner.

The MSA also reviewed plant availability data for the Keephills (Enmax) and Sundance (EPCOR and TransCanada) units during this period to obtain a sense of the relationship between outage/derate activity and the PPA Owner/Buyer communication flows. During this stage of the assessment, we identified a number of “hours of interest” around outage events which we felt required additional information. In this regard, we sent a second IR to TransAlta requesting additional communication information.<sup>5</sup>

Based on the two TransAlta IRs, we consolidated all of the information into one file and compiled dates and times concerning the following e-mail communications: (1) TransAlta’s initial notification to the Buyer for a total of 193 data points, (2) the Buyers submission of outage information to the AESO for a total of 11 data points, and (3) the Buyers confirmation to TransAlta for a total of 164 data points. With respect to point (2), the low number of e-mail communications was due to fact that the Buyers typically did not provide TransAlta with copies of their actual e-mail communications to the AESO.

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<sup>4</sup> Information Request TransAlta 2005-05-24.

<sup>5</sup> Information Request TransAlta 2005-06-08.

### 3.2 Communication Time Intervals

In this assessment the MSA considered three different time intervals. First, the “Total Time” is the time period from when TransAlta provided notices to the PPA Buyer to the moment that TransAlta received confirmation back from the Buyer that the notice has been submitted to the AESO. The Total Time period is made up of two discrete time frames. The first time frame is the time that the Buyer takes to notify the Owner, after providing the information to AESO, that the information has been passed to the AESO and is therefore deemed public (the “Notice Time”). The Notice Time pertains to the question posed in the Introduction:

*Are PPA Buyers meeting the requirements set out under the December 1, 2004 Notice to market participants?*

The second time frame is the time that the information is held by the Buyer before it notifies the AESO (the “Holding Time”) and relates to the question also stated previously:

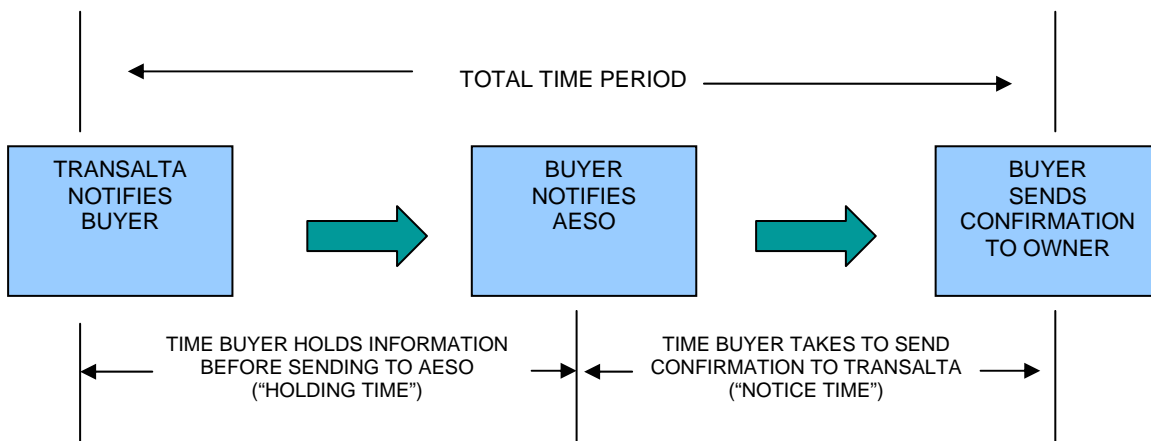
*Is the communication process consistent with a “fair, efficient, and openly competitive market?”*

With respect to the Notice Time, the MSA notes that at least one party earlier in the year suggested that they would respond as soon as possible but not later than 30 minutes after advising the AESO. For the purposes of developing a “reasonable” benchmark, the MSA considers responses within 30 minutes as significant improvement over where we were prior to implementation of the IDP, and, in particular, since the publication of the December 1, 2004 Notice. As such, where we have assessed the statistics related to the Notice Time, the MSA has used thirty minutes as our benchmark for this period. In terms of this assessment, the MSA notes that over 90 percent of the Buyers’ communications are being confirmed within 30 minutes. The MSA feels that this is in keeping with the December 1, 2004 Notice.

In relation to the Holding Time, this report talks about this time as being the length of time needed to make normal business decisions. While the ISO Rules speak to a responsibility to advise the AESO in a timely fashion, the MSA currently has not defined any parameters of its own in relation to the Holding Time. That said, we do note that the Holding Time must be measured in the context of what is reasonable in terms of “fair, efficient and openly competitive” market. In the next section of the report we have arbitrarily used a 30 minute time frame as a reference point for purposes of comparison of the statistics of the different parties. In our view, it is not unreasonable for Buyers to need some time to process the data received from the Owners.

The communication flows between PPA Owner and Buyer, as discussed above, may be described schematically as follows:

**Figure 1**



**Figure 1** illustrates the relationship between the three time periods: (1) the length of time the Buyer holds the information after receiving it from TransAlta (“Holding Time”), (2) the length of time the Buyers holds the information before sending a confirming e-mail to TransAlta (“Notice Time”), and (3) the total length of time between when TransAlta provides the initial e-mail to the Buyer to the time it receives a confirmation from the Buyer (“Total Time”).

The communication data provided by TransAlta can only be used to determine an estimate of the Total Time period between when TransAlta provides unit availability/outage information to the Buyer to the time when the Buyer confirms to TransAlta that the information has been submitted to the AESO. Consequently, it is not possible to use the information provided by TransAlta to determine if Buyers are complying with the intent of the December 1, 2004 Notice. The December 1, 2004 Notice is primarily concerned with the length of time the Buyer holds the information after notifying the AESO to when it sends a confirming e-mail to the PPA Owner, i.e., the Notice Time. In this regard, 11 points are insufficient for making this determination. Moreover, based on the communication data received from TransAlta, it is also not possible to determine the length of time that the Buyer holds the information, i.e., the Holding Time, before it submits outage and availability information to the AESO pursuant to OPP 601 and ISO Rule 3.5.1, respectively.<sup>6</sup>

As part of our day-to-day monitoring activities, the MSA maintains a database of e-mail communications from the PPA Buyers to the AESO regarding outages and unit availability. From this data base, we were able to identify 127 e-mails that fell between the two end-point times provided by TransAlta. These additional communication points enabled the MSA to estimate the length of time the Buyer holds the information after receiving it from the Owner to when it is submitted to

<sup>6</sup> In this regard, the MSA had two possible choices to obtain the necessary information, that is, an IR to Buyers or using our communication data base. Given that this is a Preliminary Assessment and rather than creating additional work for the Buyers, we utilized our information source.

the AESO and the length of time the Buyer holds the information before sending a confirmation to TransAlta.

### **3.3 Constraints/Limitations**

The MSA identified several possible issues that may affect the integrity of the data used in this report. These concerns include:

- The data provided by TransAlta represent specific events where they have identified a potential problem. It does not represent all outage notifications in a period or a random sample of those notifications.
- The TransAlta and the MSA data may not be a perfect match in every instance. In identifying the times at which Buyers communicated with the AESO, the MSA relied on its e-mail database. Where changes in outage information are occurring frequently, it is difficult to assign a particular communication from the Buyer to the AESO to a particular notification from a Buyer to the Owner.
- There is anecdotal evidence that some of the e-mail communications obtained from the MSA's data base and TransAlta's records of the Buyer's confirmations may be the same communication. If this occurs, it would tend to affect the length of the time period under the Holding and Notice Times. However, we do not believe this would materially affect the findings in the report. For the purpose of the analysis we assume that the three different time periods under consideration are independent.
- During the March 1, 2005 to May 31, 2005 assessment period, two different reporting methodologies were in use which resulted from changes in OPP 601 and TDE reporting requirements. These changes occurred late in the assessment period and likely do not affect the findings in the report.

## 4 ANALYSIS

Section 4 of the report outlines the analysis undertaken by the MSA.

### 4.1 TransAlta Communication Data

**Table 1** summarizes communication data provided by TransAlta and illustrates the Total Elapsed Time between when TransAlta notifies the Buyer of a change in unit availability to the time that TransAlta receives a confirmation from the Buyer. The analysis indicated that EPCOR and TransCanada have a high level of confirmation, 94.7 and 98.5 percent, respectively. The level of confirmation for Enmax is relatively low by comparison and may in part be a reflection of the smaller sample size or by how Enmax interprets the requirements of ISO Rule 3.5.1. In this regard, we speculate that Enmax may consolidate a number of TransAlta restatements before advising the AESO. In the prior Preliminary Assessment conducted earlier this year, the MSA noted that Enmax appeared to make strong efforts to communicate plant availability to the AESO after receiving restatements from the Owner.

**Table 1**

Total Time Period Based on TransAlta Data			
	Enmax	EPCOR	TransCanada
<b>Communication Performance - Elapsed Time (%)</b>			
≤ 1 Minute	0.0	0.0	0.0
2 to 5 Minutes	50.0	14.6	0.0
6 to 10 Minutes	40.0	46.1	17.2
11 to 15 Minutes	0.0	14.5	26.5
16 to 30 Minutes	0.0	12.4	28.1
31 to 60 Minutes	10.0	7.9	12.5
61 to 120 Minutes	0.0	1.1	6.3
> 120 Minutes	<u>0.0</u>	<u>3.4</u>	<u>9.4</u>
Total	100.0	100.0	100.0
<b>Communication Performance - Cumulative (%)</b>			
≤ 1 Minute	0.0	0.0	0.0
≤ 5 Minutes	50.0	14.6	0.0
≤ 10 Minutes	90.0	60.7	17.2
≤ 15 Minutes	90.0	75.2	43.7
≤ 30 Minutes	90.0	87.6	71.8
≤ 60 Minutes	100.0	95.5	84.3
≤ 120 Minutes	100.0	96.6	90.6
> 120 Minutes	100.0	100.0	100.0

In terms of individual Buyer communication performance relative to the 30 minute benchmark, Enmax, EPCOR and TransCanada are confirming 90.0, 87.6 and 71.8 percent of their communications within that period, respectively. Overall, the MSA considers this a high level of performance considering that it is based on an unaudited subset of e-mail communications provided by TransAlta.

## 4.2 MSA Communication Data

### 4.2.1 Buyer to AESO Communications (the “Holding Time”)

The MSA, using its e-mail database, identified 127 instances of Buyer communications to the AESO that appeared to correspond to particular notifications from TransAlta to the Buyer, i.e., the Holding Time. **Table 2** summarizes the individual Holding Times for the three Buyers. Enmax holds the information the least amount of time - less than 10 minutes, 100 percent of the time. EPCOR holds the information for less than 30 minutes approximately 94 percent of the time. TransCanada tends to hold the information for the longest period of time such that outage information is held for 30 minutes or less only 62 percent of the time.



**Table 2**

Length of Time Buyer Holds Outage Information Before Submitting to AESO			
	Enmax	EPCOR	TransCanada
Communication Performance - Elapsed Time (%)			
≤ 1 Minute	0.0	1.3	2.6
2 to 5 Minutes	60.0	34.6	10.3
6 to 10 Minutes	40.0	32.0	25.5
11 to 15 Minutes	0.0	12.8	7.7
16 to 30 Minutes	0.0	12.8	15.4
31 to 60 Minutes	0.0	2.6	15.4
61 to 120 Minutes	0.0	1.3	10.3
> 120 Minutes	<u>0.0</u>	<u>2.6</u>	<u>12.8</u>
Total	100.0	100.0	100.0
Communication Performance - Cumulative (%)			
≤ 1 Minute	0.0	1.3	2.6
≤ 5 Minutes	60.0	35.9	12.9
≤ 10 Minutes	100.0	67.9	38.4
≤ 15 Minutes	100.0	80.7	46.1
≤ 30 Minutes	100.0	93.5	61.5
≤ 60 Minutes	100.0	96.1	76.9
≤ 120 Minutes	100.0	97.4	87.2
> 120 Minutes	100.0	100.0	100.0

Generally, where Holding Times exceed the 30 minute benchmark, the longer communication times tend to occur during off-peak hours. Further, the longest times for specific outages appear to be related to planned outages.

The differences between the Buyers may be a reflection of a difference in how the parties interpret the requirements of OPP 601, ISO Rule 3.5.1, the TPG and IDP, and their individual propensity to more or less aggressive business strategies. AESO operating policies and rules and MSA guidelines are written in a manner that provides market participants with a certain amount of discretion in terms of how they meet their compliance obligations.

#### **4.2.2 Buyer to TransAlta Communications (Notice Time)**

Using the MSA database, we were able to match 123 e-mails to the TransAlta data which allowed us to estimate the length of time the Buyers wait before sending a confirming e-mail to TransAlta after notifying the AESO. The results are summarized in **Table 3**.

**Table 3**

Length of Time Between Buyer Submitting Information to AESO and Confirmation			
	Enmax	EPCOR	TransCanada
Communication Performance - Elapsed Time (%)			
≤ 1 Minute	20.0	5.3	21.1
2 to 5 Minutes	70.0	81.3	44.7
6 to 10 Minutes	0.0	5.3	13.2
11 to 15 Minutes	0.0	2.7	7.9
16 to 30 Minutes	0.0	2.7	7.9
31 to 60 Minutes	10.0	2.7	2.6
61 to 120 Minutes	0.0	0.0	0.0
> 120 Minutes	<u>0.0</u>	<u>0.0</u>	<u>2.6</u>
Total	100.0	100.0	100.0
Communication Performance - Cumulative (%)			
≤ 1 Minute	20.0	5.3	21.1
≤ 5 Minutes	90.0	86.6	65.8
≤ 10 Minutes	90.0	91.9	79.0
≤ 15 Minutes	90.0	94.6	86.9
≤ 30 Minutes	90.0	97.3	94.8
≤ 60 Minutes	100.0	100.0	97.4
≤ 120 Minutes	100.0	100.0	97.4
> 120 Minutes	100.0	100.0	100.0

As stated previously, the primary intent of the December 1, 2004 Notice is to ensure that an Owner is informed on a timely basis by its counterpart Buyer as to outage communications to the AESO. Even based on the communication information provided by TransAlta, it appears that each of the Buyers has sent a significant number of e-mail communications within the 30 minute benchmark with Enmax, EPCOR, and TransCanada sending confirmations within 30 minutes 90.0, 97.3 and 94.8 percent of the time, respectively. Moreover, Enmax and

EPCOR are confirming within 10 minutes 90 and 92 percent of the time, respectively.

#### **4.3 General Comment**

The MSA observed anecdotal evidence where the initial outage information received from TransAlta may have been modified by some of the Buyers prior to submitting the information to the AESO. For example, the information received from TransAlta may have been paraphrased by the Buyer. If this is a common practice, it may raise some questions about the quality of outage/availability information being received by the AESO. The only way to confirm whether this happens would be to conduct an audit of communication records.

## 5 FINDINGS

This section deals first with the MSA's findings concerning the two questions identified in the Introduction.

### **5.1 Are PPA Buyers meeting the requirements set out under the December 1, 2004 Notice to PPA Owners?**

The December 1, 2004 Notice is concerned with the length of time it takes the PPA Buyer to confirm to the Owner that the information has been submitted to the AESO and thus made public enabling the Owner to trade. As discussed in section 3, this period of time relates to the Notice Time. In this regard, the MSA observed a high level of compliance with the intent of the Notice. We are unable to agree with TransAlta's assertion that there are significant time lags in the Buyers providing a confirming e-mail communication. The amount of time taken by Buyers to send confirming e-mails does not appear to be unreasonable considering the vagaries of day-to-day office activity. While there appear to be exceptions to the 30 minute benchmark used by the MSA to assess communication performance these generally appear to occur in off-peak periods or are associated with longer term, planned outages. On balance, based on the information reviewed, the MSA's view is that Buyers are not taking an inappropriate amount of time to send confirming e-mails to TransAlta.

Notwithstanding the preceding comments, the MSA observed differences between the Buyers in terms of communication performance with Enmax and EPCOR having the fastest turnaround times and TransCanada having a somewhat longer turnaround time. However, we are of the view that changes to the TDE system, to be put into effect in the near future,<sup>7</sup> will eliminate these time differences because the Owner will receive an automatic e-mail confirmation when the Buyer submits outage information to the AESO. This will put the PPA Owner in the same position as the Buyer with respect to the ability to act on outage information after it is deemed to have been made "public", pursuant to the TPG/IDP.

### **5.2 Is the communication process consistent with a "fair, efficient and openly competitive" market?**

The MSA addressed this question in the context of the Holding Time, that is, the time period from when the Owner sends outage information to the Buyer to the time when the Buyer submits that information to the AESO. The MSA wishes to make it clear that the TPG and IDP were put in place to address the flow and use of outage information across the entire Alberta market. It was not just focused on the flow of information between PPA Owners and Buyers. This report however is focused on a specific issue which has been raised by TransAlta and is unique to PPA Owners and Buyers. Technically, the complaint submitted by TransAlta relates more to the IDP than the TPG.

PPA Owners and Buyers have been at odds over the sharing and use of outage information since the time PPAs became effective in 2001. Further, the parties have been unable to come to mutual agreement on how any sharing might occur.

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<sup>7</sup> Implementation is scheduled for late October, 2005.

Both parties claim the right to use outage information for their own benefit. The MSA recognizes that PPA Owners and Buyers need to be able to act on the information (in the context of the TPG/IDP) in a timely manner for risk management purposes. However, in the Alberta market, preferential use of outage information by one party would likely disadvantage the other party if it attempted to act on the information.

Fundamentally, the length of time a Buyer holds outage/derate information prior to submitting it to the AESO is a business decision which must be made by the Buyer based a number of factors.<sup>8</sup> However, the time the Buyer takes must be balanced against the EUA requirement for market participants to consider the impact of their conduct on the “*fair, efficient and openly competitive*” operation of the market as well as the requirements of the AESO in terms of system reliability and in particular OPP 601 and/or ISO Rule 3.5.1. In this regard, the MSA is of the view that the PPA Owners and Buyers must, at a minimum, use commercially reasonable efforts in terms of providing communications in a timely manner.

With respect to their EUA s.6 obligations, PPA Owners and Buyers must also give consideration to a number of factors including but not limited to a “*level playing field*”, an “*information rich environment*”, and a participant’s “*opportunity to compete*” in the market. The MSA’s recent paper – *Undesirable Conduct and Market Power* – provides further background in terms of factors to consider.<sup>9</sup>

A *level playing field* implies that the Buyer, who is also affected by the relevant PPA unit availability, should have an opportunity to consider the impact of an outage on its business operations, before the information is made known to the market. However, no one party should receive an unfair advantage by holding or using the information in an inappropriate manner to the detriment of any other party. In effect, the TPG/IDP addresses the *level playing field* by ensuring that all market participants are in the same position with respect to access to and the use of non-public outage/derate information. In effect, a level playing field represents a balance of the interests of all market participants.

Timeliness of communication also facilitates an information rich environment for PPA Owners and Buyers as well as the market at large. Further, timeliness of communication to the AESO also helps to facilitate system reliability. Minimizing the length of time it takes to communicate information improves the ability of market participants to consider the effect of changes in market fundamentals and as a consequence they are able to make more informed decisions about trading and implementing operating strategies. Timeliness of communications also improves a participant’s ability to compete or contest in any part of the market without undue barriers or interference, whether structural or by a competitor. In the context of timeliness, the MSA is of the view that if an

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<sup>8</sup> Similarly, the Owner’s decision to schedule an outage is a business decision that must also take into consideration many of the same factors that the Buyer must consider.

<sup>9</sup> <http://www.albertamsa.ca/2665.html>

Owner is being locked out of a thinly traded market for a relatively small amount of time or being locked out of a market, even for several hours when the delivery of a product occurs many months in the future presents very little measurable impact.

From a trading/risk management perspective, the MSA recognizes that outage information has a time value. The MSA would be concerned if a Buyer, having no interest in trading on outage information, held the information for an excessively long period of time and thereby unduly affected the Owner's opportunity to compete in the market. On the other hand, by virtue of the 30 day RAPP, the exposure by Owners to pool price movement (the motivator for forward trading) is approximately 1/30 that of the Buyers exposure. When it comes to scheduled outages the Owners also enjoys the substantial advantage of being able to manage their risk by being able to determine the schedule in the first place. It seems reasonable to assume and indeed expect that Buyers will, using commercially reasonable efforts, submit outage information to the AESO as soon as it has made a business decision concerning the impact of the information on its own trading and risk management activity or to remove any barriers to the Owner's trading activity.

### **5.3 What factors can be addressed to improve the overall efficiency and effectiveness of the communication process?**

Initially, the IDP outage disclosure mechanism was based solely on OPP 601. However, the outage graphs published on the AESO's website are now based on the provisions of ISO Rule 3.5.1 and which applies specifically to changes in short term availability. In this regard, the MSA will amend the relevant provisions of the IDP to reflect this situation. IDP requirements related to planned outages will continue to be based on OPP 601.

To ensure that communications between Owner, Buyers and the AESO are consistent with the operation of a "*fair, efficient and openly competitive*" market, the MSA may, if necessary, conduct random, periodic forensic audits of outage communication flows and usage.

## 6 CONCLUSION

The purpose of the Preliminary Assessment was to address the question of whether, under the circumstances, the MSA should proceed to an informal or formal investigation. In this regard, the MSA is of the view that there is insufficient evidence to warrant moving to either an informal or a formal investigation. The review of TransAlta communication data, which was supported by the MSA data, indicates that Buyers were largely complying with the intent of the December 1, 2004 Notice during the period reviewed. The MSA was unable to find sufficient evidence to demonstrate that PPA Buyers intended to unnecessarily delay sending e-mail communications to the AESO pursuant to OPP 601 or Rule 3.5.1 or to the Owner as provided by the December 1, 2004 Notice.

The MSA also considered the TransAlta complaint in terms of materiality. In this regard we are of the view that there is no evidence to suggest that TransAlta's market interests were unduly impacted by the actions of the Buyers, whether intended or not.

On balance, the points presented in section 5 of the report in conjunction with the actual performance of the Buyers make TransAlta's assertion of "significant financial impact on PPA Owners" difficult if not impossible to sustain.

TransAlta requested that the MSA, in order to mitigate their concerns, "implement the scheme set forth in the December 1 letter" or in the alternative "modify or repeal the TPG. Based on the analysis of the communication data, the MSA is of the view that neither of these requests is warranted.