



## NOTICE TO MARKET PARTICIPANTS AND STAKEHOLDERS

Date: March 3, 2014

### **Re: The Market Surveillance Administrator formalises relations with the Competition Bureau and the US Federal Energy Regulatory Commission**

The Market Surveillance Administrator is pleased to announce that it has signed memoranda of understanding (MOU) with the Competition Bureau (the Bureau) and the US Federal Energy Regulatory Commission (FERC). The MOUs in question are separate and distinct from one another, reflecting the different mandates and jurisdictions of the Bureau and FERC.

Closer ties with FERC and the Bureau give the MSA access to the knowledge and expertise of two world class national agencies; one in energy regulation and the other in competition law enforcement. This access will help ensure that the MSA's approach to fair, efficient and openly competitive markets is informed by the latest thinking.

The MOUs contemplate sharing confidential information within the parameters allowed by legislation. This enhances the MSA's ability to perform its mandate, but will also deliver other benefits to stakeholders. For example, the MSA's responsibility for ensuring Alberta's energy markets are fair, efficient and openly competitive runs parallel to the overarching competition oversight of the Bureau. Both agencies have committed to coordinating their activities in this shared space, reducing the possibility of duplication or inconsistency. This greater clarity and predictability should ease the regulatory burden on stakeholders. This is consistent with section 5(h) of the *Electric Utilities Act*:

to provide for a framework so that the Alberta electric industry can, where necessary, be effectively regulated in a manner that minimizes the cost of regulation and provides incentives for efficiency.

The [Bureau / MSA MOU](#) and [FERC / MSA MOU](#) are available on the MSA's website.

Yours truly,

*/s/ Harry Chandler*

Administrator

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## Background

[The Bureau](#) is an independent law enforcement agency that ensures that Canadian businesses and consumers prosper in a competitive and innovative marketplace, including through the administration and enforcement of the *Competition Act*. [FERC](#) is an independent public agency whose regulatory authority includes the transmission and sale of electric energy at the wholesale level in interstate commerce in the United States.

The MSA has the authority under the *Alberta Utilities Commission Act* to enter into agreements with agencies outside of Alberta. The MSA is also obligated to notify counterpart agencies if, after starting an investigation, the MSA determines that the matter under review is within the other agency's jurisdiction. The MSA also has the discretion (but not the obligation) to make available to the other agency records in its possession that are relevant to the matter. Disclosure of records by the MSA is subject to the requirements of the *Market Surveillance Regulation* and other federal and provincial legislation.

The relevant excerpts of the *Alberta Utilities Commission Act* are set out below:

### **Natural person powers**

**34(4)** The Market Surveillance Administrator may enter into arrangements or agreements with responsible authorities outside Alberta relating to

- (a) the powers and mandate of the Market Surveillance Administrator, or
- (b) the co-operative enforcement of legislation relating to enactments affecting the electric industry or the natural gas industry.

### **Notice to another body having jurisdiction**

**45(1)** If after starting an investigation the Market Surveillance Administrator determines that a matter is within the jurisdiction of one or more of:

- (a) the Commission,
- (b) the person or persons responsible for administering the *Competition Act* (Canada), or
- (c) another body,

the Market Surveillance Administrator shall notify the appropriate body of the matter and may make available to that body any records in its possession that are relevant to the matter.

**(2)** The Market Surveillance Administrator may

- (a) discontinue an investigation if the matter appears to be within the jurisdiction of another body and in that event shall notify the person who made a complaint or referral of the discontinuance, giving reasons for the decision, or

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(b) continue an investigation:

- (i) for the purpose of carrying out its mandate, or
- (ii) for the purpose of collaborating with any body notified under subsection (1).