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[**Implementing the Capacity Market for Electricity in Alberta: Bill 13 and the AESO’s CMD.2**](https://ablawg.ca/?p=9624)

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**Bill Commented On:** An Act to Secure Alberta’s Electricity Future, [Bill 13 [Alberta]](http://www.assembly.ab.ca/ISYS/LADDAR_files/docs/bills/bill/legislature_29/session_4/20180308_bill-013.pdf), first reading, April 19, 2018.

**Documents Commented On:** AESO, [Comprehensive Market Design 2](https://www.aeso.ca/market/capacity-market-transition/comprehensive-market-design/), and the [Rationale for the Comprehensive Market Design 2](https://www.aeso.ca/), April 24, 2018

As [previously noted](https://ablawg.ca/2016/11/29/finally-a-plan-albeit-drip-by-drip-to-phase-out-coal-and-keep-the-lights-on/) on ABlawg, Alberta is in the processing of adding a capacity market to complement the existing energy and ancillary services markets in the electricity sector. This post comments on two recent developments in the field. The first is the release by the Alberta Electric System Operator (AESO) of the second iteration of its Comprehensive Market Design (CMD) for the proposed capacity market (CM). The second is the introduction of *An Act to Secure Alberta’s Electricity Future* (Bill 13). While this Bill has additional objectives [as previously noted](https://ablawg.ca/2018/04/25/overturning-stores-block-and-implementing-the-capacity-market/), the principal purpose of the Bill is to provide the necessary statutory support for the implementation of the CM.

The post begins with a brief review of how we got to this point in the evolution of Alberta’s electricity market and then examines each of these two developments in some greater detail.

**Background to the Decision to Add a Capacity Market**

The starting point for the decision to add a CM begins with the adoption of the [Climate Leadership Plan](http://www.alberta.ca/climate-leadership-plan.aspx) in November 2015 and in particular the first plank in that Plan which envisaged the shuttering of coal plants by 2030. That decision has significant implications for the structure of Alberta’s electricity market since coal represented about 38% of Alberta’s installed capacity at the time and an even larger percentage of electricity generated (about 47%) insofar as coal generation is available 24/7, 365 days a year subject to scheduled and un-scheduled outages. While the province was committed to support renewables to provide a portion of that lost capacity and energy, most renewables (wind, sun) are intermittent and therefore not dispatchable. Thus it was important to be assured that the existing market structure (essentially an energy only market (EOM)) would deliver the incremental investment required to provide dispatchable capacity and without undue price volatility (which might trigger government intervention – the death knell of any nascent constructed market).

The key characteristic of an EOM is that generation is only compensated when dispatched. This means (in the context of a commodity that is difficult to store) that units principally designed to meet peaks in demand (which cannot be met by taking more product out of storage) must be able to recover from the pool price not only the operating costs of that facility when it is actually generating, but also the fixed costs of that facility not only for when it generates but also for all of those hours during the year when it is not generating.

The AESO clearly had its doubts as to whether an EOM could continue to deliver. In a report released in November, 2016 ([Alberta’s Wholesale Electricity Market Transmission Recommendation](https://www.aeso.ca/assets/Uploads/Albertas-Wholesale-Electricity-Market-Transition.pdf)), the AESO concluded (at 43) that “the combination of increased renewables and a general global trend of investors and capital away from investing in markets with significant revenue uncertainty meant that the EOM is unlikely to deliver an acceptable level of reliability going forward. Even changes to the EOM are unlikely to deliver on the objectives.” This led the AESO to recommend the adoption of a capacity market. The province accepted that recommendation and directed (January 2017) the AESO to take the lead ([see mandate letter](https://www.aeso.ca/assets/Uploads/capacity-market-design-AESO-mandate-letter-Jan-10-2017.pdf)) in developing the technical aspects of the proposal. Since then, the AESO, along with stakeholders, has been doing just that. The process details are available [on the AESO website](https://www.aeso.ca/market/capacity-market-transition/sam-working-groups/). The most recent product of that work is the CMD 2 document and its accompanying rationale.

It bears emphasizing that while government has delegated the technical aspects of market design to the AESO, the Department of Energy still retains responsibility for some key decisions, including the governance structure for the new market, the resource adequacy standard (i.e. what level of risk of an outage are we prepared to tolerate) and the mechanism for allocating the costs of capacity procurement to customers. Thus, in order to keep track of progress towards CM implementation it is important to keep an eye on both the AESO’s [capacity market webpage](https://www.aeso.ca/market/capacity-market-transition/) and Alberta Energy’s [Electricity Stakeholder Information](http://www.energy.alberta.ca/AU/electricity/AboutElec/Pages/Stakeholder.aspx) webpage.

**Comprehensive Market Design 2**

The basic idea of a capacity market is fairly simple: generation (and other qualifying participants) should be compensated for making capacity available to the market. Accordingly, qualifying generation is eligible for two streams of payments: a payment in the capacity market and a payment in the energy market to the extent that generation is dispatched. Both markets are based on competitive bids.

The details of market design however are very complex and highly technical. The CMD aims to provide a set of rules (or at least the instruction to draft a set of AESO Rules) to answer a number of key questions. These questions are: (1) who (what assets) can participate in the CM; (2) how should we calculate the capacity value of an asset; (3) what is the resource adequacy standard and how should we determine capacity needs based on that standard; (4) how should capacity be acquired (a base auction); (5) what true-up mechanism should we use (rebalancing auctions); (6) how should we deal with market power and competition issues; (7) what mechanism do we need to ensure performance of capacity obligations; and (8) how do we make provision for payments in the capacity market.

The following sections explore the CMD’s answers to these questions. While these sections follow the general layout of the CMD report there are two qualifications. The first is that the CMD begins with an Overview chapter and accordingly all of the above numbers are out by 1. Second, the questions above are framed in less technical language than the different chapters of CMD 2. It also bears mentioning that CMD 2 contains an additional final chapter 10 which describes changes that the AESO considers will be needed for the energy and ancillary services markets.

**Who (What Assets) Can Participate in the CM?**

In principle, the answer to this question should be any asset that is capable of offering a capacity benefit. In general, I think that that is the answer CM provides in Chapter 2 headed “Supply Participation”, subject to the need for pre-qualification and subject to some provisos and exceptions.

Any existing generation in Alberta capable of offering a capacity value of greater than 1 Megawatt (MW) is automatically pre-qualified (s 2.1.2). Any new generation or generation outside the province will have to apply to be qualified. Other assets may also participate if pre-qualified including demand response load and storage assets. A participant may aggregate assets to meet the 1 MW threshold (s 2.1.10). An asset that is the subject of a renewable energy support agreement under any of the first three rounds is ineligible (on the basis that the strike price includes compensation for any capacity benefit, see Rationale, s 2.1.4). Energy efficiency projects are not eligible to participate at this time although the AESO continues to study this issue (s 2.1.5). CMD 2 proposes specific rules to deal with self-supply.

**How Should We Calculate the Capacity Value of an Asset?**

CMD 2 deals with this issue in chapter 3 under the heading “Calculations of Unforced Capacity Ratings (UCAP)”. The goal of the calculation methodology (s 3.1.1) is to create “a consistent and measurable supply adequacy product that allows different technologies to compete on a level playing field (i.e., 1 MW of UCAP should deliver the same amount of reliability regardless of the underlying technology).” Also, “The AESO [Rationale, s 3.1.1] will calculate UCAP by averaging the available capability or the energy generation (capacity factor) of assets during hours with tight supply cushion over the previous 5 years.” Where an asset does not have a five year history the AESO will determine UCAP based on a class average. CMD 2 provides two different methodologies (Rationale, s 3.1.5) for quantifying demand response contributions. The AESO contemplates that it will make a dispute resolution process available to participants to contest (on the basis of the specified criteria) the AESO’s calculation of UCAP in any particular case.

**What is the Resource Adequacy Standard and How Should We Assess Capacity Needs Based on that Standard?**

There are two parts to this question. The first question is inherently a political question – what level of resource adequacy do we as a society want and are prepared to pay for? The second is a technical question best answered by the AESO and experts.

The decision making process to get us to a capacity market observes this distinction. Thus, the first question has been answered by the Department of Energy. The Department signaled its intent to do this in a document released in August 2017, [Powering Alberta’s Future, Policy Direction for Alberta’s Capacity Market](http://www.energy.alberta.ca/AU/electricity/AboutElec/Documents/PolicyDirection_AlbertaCapacityMarketFramework.pdf) (at 10) and followed this up with the [Discussion Paper: Alberta Capacity Market Resources Adequacy](http://www.energy.alberta.ca/AU/electricity/AboutElec/Documents/ResourceAdequacyDiscussionPaper.pdf) in October 2017. This second paper outlined a number of different approaches to assessing adequacy and invited feedback on those different approaches. Finally, in March 2018, the Department issued a document entitled [Policy Direction for Alberta’s Capacity Market](http://www.energy.alberta.ca/AU/electricity/AboutElec/Documents/PolicyDirectionCapacity%20Market.pdf). In this document the government indicated that it had opted for the Normalized Expected Unserved Energy Model (the EUE model). The EUE is the expected percentage of the system load measured in Megawatt hours **(**Mwh) that will *not* be served in any given year. The Government has established the specific target as 0.0011 percent of system load than cannot be served in a year. This, as the AESO acknowledges in CMD 2 (at s 4.1.1), “prescribes a minimum level of reliability as opposed to a target level of reliability.” The Government explained this choice on the basis that this was the level of reliability that Alberta had experienced since 2006. It bears emphasising however that in an energy only market there is no administratively set resource adequacy although the [AESO’s rules (Section 202.6)](https://www.aeso.ca/rules-standards-and-tariff/iso-rules/complete-set-of-iso-rules/download/Complete-Set-of-ISO-Rules-2018-03-28.pdf) require the AESO to maintain and report on long term supply adequacy metrics. A capacity market departs from this idea and necessarily involves a degree of central planning; and to that extent it is an out-of-market response to the challenge of security of supply.

As for the second part of this question, the AESO provides its response in chapter 4 of CMD 2 entitled “Calculation of Demand Curve Parameters”. This section informs that the AESO will develop a Resource Adequacy Model (RAM). The RAM will perform (s 4.2.1) “a Monte Carlo simulation to probabilistically model hundreds of inputs to consider supply adequacy factors and understand their impacts on reliability”. The model will consider a number of factors that influence the supply and demand balance in Alberta including load forecast, supply availability, characteristics of thermal assets, load served by onsite generation, energy emergency alert (EEA) events, renewable profiles for wind and solar for geographical diversity and technological advances. Chapter 4 also indicates that the AESO will develop a demand curve based on a reference technology which will be used, *inter alia*, to set a price cap for the capacity auctions.

**How Should Capacity be Acquired (a Base Auction)?**

Capacity will be acquired by the AESO (see [Powering Alberta’s Future](http://www.energy.alberta.ca/AU/electricity/AboutElec/Documents/PolicyDirection_AlbertaCapacityMarketFramework.pdf) (at 9)) through a base auction (Chapter 5) and one or more rebalancing auctions (Chapter 6). Capacity will be acquired for a one year period (the obligation period), November 1 to October 31 and will be conducted three years in advance (except in the case of the transitional period where it is anticipated that the timelines will be truncated). Bids will identify the asset, whether the block offered is flexible or inflexible, the price expressed in $/kW year and the quantity of UCAP MWs for that block. In the normal case, a single capacity price will be paid to all qualified capacity assets that clear the market. The AESO envisages the need to make adjustments where the availability of capacity assets is limited by transmission constraints.

**What True-Up Mechanism Should We Use (Rebalancing Auctions)?**

The AESO recognizes that there may be a need to rebalance the capacity requirements in the intervening three year period. Accordingly, the AESO will schedule two rebalancing auctions in this period (except during the transition period when there will be only one rebalancing auction per obligation period). The AESO describes the purpose and function of a rebalancing auction as follows (s 6.1.1, rationale document):

A rebalancing auction provides a market-based mechanism for the AESO and firms to adjust to changes in the load forecast, UCAP ratings, new asset delivery expectations and to optimize the sales in their portfolio since the base auction. The updated resource adequacy target is reflected in the AESO’s rebalancing auction reliability requirements, which determines the value of capacity under current system conditions. If the system is tight in the rebalancing auction timeframe, rebalancing auction prices will be high. Capacity committed assets will be strongly incentivized to deliver on their commitments to avoid buying out at the high rebalancing price, and additional capacity assets will be strongly incentivized to enter. If the system is oversupplied, prices in the rebalancing auction will be low. Capacity committed assets will be able to buy out of those commitments relatively inexpensively, and additional capacity assets may not wish to enter.

**How Should We Deal with Market Power and Competition Issues?**

The AESO anticipates that there may be market power issues in the capacity market. The AESO deals with issues in Chapter 7 entitled “Capacity Market Monitoring and Mitigation”. The rationale document provides the basis for thinking that *ex ante* measures may be required to curb anti-competitive behavior such as physical or economic withholding when it states the AESO has calculated that (Rationale, s 7.1) “five firms in Alberta control over 70% of the entire fleet-wide unforced capacity in the market with the top two firms controlling almost 45% of total supply.” To focus on supply side issues the AESO proposes four *ex ante* mitigation measures: (1) a must offer rule; (2) a market power screen to determine if a firm could exercise market power; (3) a default offer price cap imposed on all firms that fail the screen; and (4) the possibility that the AESO might develop an asset specific offer price cap where that could be shown to be justified on the basis of that asset’s costs.

**What Mechanism Do We Need to Ensure Performance of Capacity Obligations?**

Since the AESO on behalf of customers is paying for capacity it is crucial that contracted capacity shows up to perform during shortage conditions. Chapter 8 (Supply Obligations and Performance Assessments) envisages a number of measures to incent capacity to perform including a non-performance payment adjustment based on 1.3 times the obligation price.

**How Do We Make Provision for Payments in the Capacity Market?**

There are two different parts to this question. The first part deals with the issue of who should pay for acquiring the capacity obligations in the market and through what mechanism. The second part deals with the actual settlement mechanism for ensuring that capacity gets paid (and fulfils any default obligations it might have).

The first part of the question is actually answered as soon as we appreciate that a capacity market is (despite the name) an out-of-market means for ensuring security of supply and that the AESO in Alberta is effectively procuring capacity on behalf of load (except load that self-serves). It is therefore a regulated service that the AESO needs to collect as part of the tariff which it files for approval with the Alberta Utilities Commission. But that still leaves some choices as to the appropriate methodology for allocating those costs to different classes of consumers. The Government of Alberta recognized this when it issued in December 2017 a discussion document entitled [Capacity Market Cost Allocation](http://www.energy.alberta.ca/AU/electricity/AboutElec/Documents/CapacityCostAllocationDiscussionDocument.pdf). That document discussed allocating the costs of capacity acquisition to all consumption on the transmission system according to one of three methods: (1) coincident peak (i.e. the consumer’s demand at the time of system peak); (2) weighted energy; or (3) total energy. In its March 2018 [Policy Direction for Alberta’s Capacity Market](http://www.energy.alberta.ca/AU/electricity/AboutElec/Documents/PolicyDirectionCapacity%20Market.pdf), the Government of Alberta opted for the weighted energy method of allocation. This method may be expressed further as follows. A customer’s (or customer class given metering limitations) consumption would be divided according to different consumption periods e.g. off-peak, on-peak and super-peak. A different multiplier would be applied to the energy consumed in each period thereby reflecting (at 5) “the impact that incremental consumption has on the need for capacity in that hour.” The details of this will have to be worked out as part of an AESO tariff application to the AUC.

The second part of the question deals with account settlement and security. These issues are address in Chapter 9 of CMD 2 entitled “Settlement and Credit Requirements”. The appropriate security requirements are still being determined (s 9.6.2).

This concludes the description of the AESO’s CMD 2. The post now turns to examine the Capacity Market Provisions of Bill 13.

**The Capacity Market Provisions of Bill 13**

As noted above, a principal purpose of Bill 13 is to provide the legislative infrastructure for the implementation of the CM in Alberta. The Bill does this by amending the provisions of a number of Alberta’s energy statutes most notably the *Electric Utilities Act*, [SA 2003, c E-5.1](http://canlii.ca/t/52x2c) (*EUA*) and the *Alberta Utilities Commission Act*, [SA 2007, c A-37.2](http://canlii.ca/t/52zj0) (*AUCA*).

**The Amendments to the *EUA***

The amendments to the *EUA* fall into three main categories.

First, there are amendments designed to reflect that Alberta is adding a capacity market to the existing market structure and to describe the AESO’s main responsibilities for the capacity market – just as the *EUA* describes the AESO’s responsibilities for operating the power pool and the transmission system. Thus, s 5, the purposes provision of the *EUA,* will be amended to add the following references to the CM:

(c.1) to provide for a capacity market to ensure that a reliable supply of electricity is available at reasonable cost to customers, and for rules governing the establishment and operation of the capacity market to ensure

(i) that the capacity market is efficient and based on fair and open competition and is not distorted by unfair advantages of government-owned participants or any other participants, and

(ii) that the costs of procuring capacity are reasonable and are distributed among customers fairly and in a manner that provides incentives for economic efficiency;

Similarly, s 16 which deals with the AESO’s “Duty to act responsibly” will have a new subsection to the effect that:

The Independent System Operator must exercise its powers and carry out its duties, responsibilities and functions with respect to the capacity market in a timely manner that is fair and responsible to ensure that a reliable supply of electricity is available at reasonable cost to customers and to promote a fair, efficient and openly competitive capacity market.

Both sections of course emphasise the applicability of the FEOC (fair, efficient and openly competitive) principle.

Section 17 which describes the duties of the AESO will have a new section that itemizes the AESO’s duties with respect to the CM. These items reflect, at least in part, the headings discussed above with respect to CMD 2.

(l.01) in respect of the capacity market,

(i) to establish and operate the capacity market in a manner that is fair and open,

(ii) to assess the current and future energy needs of Alberta’s electricity customers in order to procure capacity to meet the requirements of the resource adequacy standard,

(iii) to conduct capacity auctions to procure capacity to meet the requirements of the resource adequacy standard,

(iv) to carry out financial settlement in respect of the capacity market, and

(v) to manage and recover the costs of the capacity market;

Second, there are changes to the ISO rule provisions currently found in ss 20 – 24.1 of the *EUA*. These changes are in part designed to accommodate the addition of the CM but are also intended to engage the AUC more directly and uniformly in the rule *approval* process.

Under the current provisions, the ISO must file a new rule with the Commission (s 20.2(1)) and the AUC must give notice of that filing. However, if no objection is made to the rule the rule comes into effect in 10 days (s 20.3). An objection by a market participant or the Market Surveillance Administrator may trigger a hearing and then the rule will only come into effect (unless disallowed) when confirmed by the AUC.

The new provisions make it clear that any new rule requires the positive approval of the AUC before it can come into force. As a result, the objection provisions (s 20.3 – 20.5) of the current *EUA* will be repealed. The replacement provisions will require that the AUC *must be satisfied*:

(a) that the ISO rule

(i) is not technically deficient,

(ii) supports the fair, efficient and openly competitive operation of the market to which it relates, and

(iii) is in the public interest,

(b) if the ISO rule relates to the capacity market, that the ISO rule

(i) supports ensuring a reliable supply of electricity is available at reasonable cost to customers, and

(ii) does not conflict with and is not inconsistent with the regulations made under Part 2.2, and

(c) that the Independent System Operator, in developing the rule, complied with the Commission rules made under section 20.9.

These criteria are not materially different from the current provisions (with the exception of the new requirements specific to the CM) but they do seem to materially alter the onus of proof. Under the proposed provisions the onus is clearly on the AESO to establish a positive case for the new rules. Whether this change will have an appreciable effect in practice, making it harder for the AESO to get rules in place, or by exposing the AUC to additional and time-consuming appeals, remains to be seen.

There is one important exception to the “must be satisfied test” in the new provisions and that pertains to the first rules proposed by the AESO with respect to implementation of the capacity market. In this case, the Act contemplates “provisional approval” of these rules on the basis that it “appears to the Commission” (new s 20.22(5)) that the above tests are satisfied. This is intended to be a materially lower threshold than “is satisfied that”.

There is still the opportunity for expediting a new AESO rule although the new process deprives the AESO of some autonomy insofar as the final decision with respect to urgency or other compelling grounds for expediting the rule will now be made by the AUC rather than the AESO itself as seems is contemplated by the current s 20.6.

The amendments retain and indeed expand the complaint jurisdiction of the AUC with respect to AESO fees and rules. Under the new s 25 a market participant (MP) will be able to make a complaint to the AUC to the effect (s 25(1)(b)):

(iii) that the ISO rule does not support ensuring a reliable supply of electricity is available at reasonable cost to customers, in the case of an ISO rule that relates to the capacity market;

(iv) that the ISO rule conflicts with or is inconsistent with the regulations made under Part 2.2, in the case of an ISO rule that relates to the capacity market;

While the onus will be on the MP (or on the MSA when the MSA lays the complaint) these provisions continue to be very broadly drafted. Section 26 of the EUA which deals with the broader jurisdiction of the AUC to investigate complaints about *the conduct* of the AESO continues unchanged except that the section envisages possibly limiting access to this jurisdiction by means of regulation. For earlier comments on the AUC’s complaint jurisdiction see [here](https://ablawg.ca/2018/01/11/the-complaint-jurisdiction-of-the-auc-with-respect-to-the-aeso/).

Third, the amendments will add a new Part 2.2 to the Act entitled “Capacity Market”. These amendments are designed to afford the AESO the authority to implement the CM. While the provisions discussed above deal with the *rule making process* much of Part 2.2 is concerned to ensure that the AESO has the authority to make (i.e. propose for the approval of the AUC) rules with respect to all of those matters that are covered by CMD 2. Crucially, this part (s 41.45) also provides the authority (indeed the obligation) for the AESO to recover the costs associated with capacity payments through the AESO tariff submitted for approval to the AUC. Part 2.2 concludes with broad regulation making powers necessary to implement the capacity market, including, for example. the power (s 41.46(a)) to establish the resource adequacy standard.

**The *AUCA* Amendments**

In addition to overturning *Stores Block* as discussed in an [earlier post](https://ablawg.ca/2018/04/25/overturning-stores-block-and-implementing-the-capacity-market/), the amendments to the *AUCA* are principally concerned to extend the jurisdiction of the Market Surveillance Administrator (MSA) to include the capacity market. While, as we have noted, the CMD 2 proposals contain some measures to mitigate market power on an *ex ante* basis the MSA will have additional jurisdiction both to monitor the AESO’s efforts to limit the exercise of market power as well as *ex post* authority to sanction behaviour in the capacity market that fails to live up to the FEOC principle, much as it can in the energy market: see Market Surveillance Administrator allegations against TransAlta Corporation et al., Mr. Nathan Kaiser and Mr. Scott Connelly, [AUC Decision, 3110-D01-2015](http://www.auc.ab.ca/regulatory_documents/ProceedingDocuments/2015/3110-D01-2015.pdf) and see also a recent case management decision dealing with a class proceeding relating to this matter *Carlson v Transalta Corporation*, [2018 ABQB 343 (CanLII)](http://canlii.ca/t/hrq77).

To revert for a moment to CMD 2. Chapter 10 of the Rationale document contains an extensive discussion of changes that the AESO considers will need to be made to the existing energy and ancillary markets in response to adopting a CM. Part of this discussion (s 10.7) pertains to additional *ex ante* measures to curb market power in the energy market. Essentially CMD 2 argues the case for a greater degree of surveillance in the energy market given that (at s.10.7) “the energy market is no longer required to provide sufficient revenue in excess of operating costs to cover the fixed costs of prudent investment in generation capacity, [hence] economic withholding would continue to result in short-run, static inefficiencies that are not necessary to achieving a long-run, dynamically efficient outcome for Alberta’s consumers.” What is not clear to me is who should be responsible for this harder look. Should it be the AESO or the MSA?

**A Concluding Plea**

I conclude with a plea to the AESO that it provide its CMD documents in a PDF format rather than (or as well as) in the form of individual web pages. For a reason that is a complete mystery to me, the AESO provides many of its key documents, including the CMD documents, in the form of multiple individual web pages, without an accompanying consolidated pdf. This makes it impossible to scroll through the document. It also means that printing the entire document is incredibly laborious. Please, please, please, can we have these documents as PDFs instead of (or as well as) web-page documents? I note that the AESO has now done this for the ISO rules and it would be good to add this functionality for the CMD documents. It would also be consistent with the E in FEOC.

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