Alberta Market Surveillance Administrator issues notice of investigation to Balancing Pool

September 22, 2020

On Sept. 2, 2020, the Market Surveillance Administrator (MSA) announced it was initiating an investigation into the bidding practices of the Balancing Pool (BP) under section 42(1)(b) of the *Alberta Utilities Commission Act*. The investigation focuses on the Balancing Pool's conduct in relation to potential breaches of the *Electric Utilities Act*, including sections 6 and 85, the *Fair, Efficient and Open Competition Regulation*, and the Settlement Agreement between the MSA and Balancing Pool that was approved by the Alberta Utilities Commission on Jan. 14, 2020. This investigation relates to the remaining power purchase agreements (PPAs) for which the BP still has offer control and follows an earlier MSA investigation into the BP's bidding practices. The prior investigation resulted in a settlement agreement between the BP and the MSA that was ultimately approved by the Alberta Utilities Commission.

The current investigation will be interesting for the market as it appears to have been prompted by COVID-19 and oil price impact. Some power companies have elected to shut down their generating units and most, if not all, have sought to reduce operating costs. There are legal and regulatory frameworks for the Balancing Pool's ability to coordinate a shutdown with the PPA units' owners and operators. Given market impacts and the uncertainties of COVID-19 on the industry, it remains to be seen how the investigation will unfold and whether there will be further MSA activity.

Stay tuned to this page for more updates on this topic.

By

Alan Ross

Expertise

Energy – Power

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749