



**TransAlta Corporation**  
TransAlta Place  
Suite 1400, 1100 1 St SE  
Calgary, Alberta T2G 1B1  
T: +1 (403) 267-7110  
www.transalta.com

**Vincent Light**  
**Legal Counsel, Regulatory**  
Direct Line: 403-267-7640  
Email: vincent\_light@transalta.com

September 3, 2024

Alberta Utilities Commission  
1400, 600 Third Avenue S.W.  
Calgary, AB T2P 0G5

**Attention: Laura Johnson, Program Manager, Regulatory**  
**Re: Consultation on Rule 007: Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines**

### **TransAlta Corporation Submission**

TransAlta Corporation ("**TransAlta**") provides the following submissions in response to the Alberta Utilities Commission's ("**Commission**") Bulletin 2024-08: *AUC consultation on Rule 007 and enhanced interim information requirements* ("**Bulletin**").

TransAlta actively participated in the Commission's oral consultations, and will not repeat those submissions here. The Commission's notes<sup>1</sup> posted on the Commission's website accurately summarize the submissions provided by participants.

Specifically, the Bulletin sought written feedback on the following three topics.

- Methodology for visual impact assessments;
- Draft municipal engagement form; and
- Appropriate value for field of view in glare assessment for solar power plant applications.

The Commission also noted that it was seeking feedback on the issue of setbacks, and provided a sample table of potential setback distances.

### **Methodology for Visual Impact Assessments**

TransAlta considers that the methodology for visual impact assessments, as discussed in the report entitled AUC inquiry into the ongoing economic, orderly and efficient development of electricity generation in Alberta ("**Module A Report**") to be generally reasonable.

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<sup>1</sup> <https://media.auc.ab.ca/prd-consultation/sites/2/2024/05/Notes-from-Rule-007-consultations.pdf>



## Draft Municipal Engagement Form

TransAlta considers that the draft municipal engagement form will prove useful for both project proponents and municipalities on a voluntary basis or – like all other information in Appendix A1 to Rule 007 – as a guideline for effective communication between the applicant and potentially affected persons, and will serve to promote a more uniform and consistent approach and expectation for preparing and executing on Participant Involvement Programs (“**PIP**”) across projects.

However, if such a form becomes mandatory for inclusion in a PIP, TransAlta suggests that the format proposed by the Commission could be improved or altered slightly. TransAlta is concerned with the inclusion of a signature block should the form become mandatory. This implies one of two outcomes:

- (i) the municipality itself must summarize and prepare its own consultation record for each project on behalf of a proponent, or
- (ii) the municipality must provide its consent and approval over the form and content of the PIP prepared by the proponent.

In both cases, but especially in the former case, this imposes an additional administrative burden where no concerns are raised by the municipality, and would unfairly single out municipal governments within the PIP process as compared to local landowners and occupants, first nations, provincial agencies, stakeholder groups and others. Project proponents currently provide the Commission with a summary or record of all stakeholder engagements and unresolved concerns in their PIPs. TransAlta is not aware of any proponent having intentionally withheld or misrepresented the status of an unresolved concern from stakeholders in a PIP summary.

In the latter case, a municipality opposed to or choosing to ignore a project’s PIP may effectively veto, or unreasonably delay a project by refusing to issue a referral letter. This underscores the difficulty with making such a form mandatory, and would run counter to the long-standing Commission direction about the purpose of a PIP to “make reasonable efforts to ensure that all those, whose rights may be directly and adversely affected by a proposed development, are informed of the application, and have an opportunity to voice their concerns and to be heard.”<sup>2</sup> As noted recently by the Commission, a lack of agreement or resolution does not in and of itself equate to a lack of consultation:<sup>3</sup>

The Commission’s view of consultation remains unchanged and applies to all stakeholders, including companies with business interests in the vicinity of a project. It also bears repeating that a consultation program may not resolve all concerns with a project, and if an applicant does not agree with a stakeholder’s

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<sup>2</sup> Decision 2011-329: *NaturEner Energy Canada Inc. 162-MW Wild Rose 2 Wind Power Plant and Associated Eagle Butte Substation* (August 2, 2011), at para 169.

<sup>3</sup> Decision 25100-D01-2021: *Capstone Infrastructure Corporation Buffalo Atlee Wind Farm* (June 28, 2021) at para 45.

proposed resolution to a concern, that does not necessarily mean that effective consultation did not occur.

## **Appropriate Value for Field of View in Glare Assessment for Solar Power Plant Applications**

TransAlta considers that a field of view of 25 degrees for local roads, including range roads and township roads, and a field of view of 50 degrees for highways, railways, and flightpaths to be reasonable for use in glare assessments for solar power plant applications.

## **Setback Distances**

TransAlta recommends that the Commission not establish setbacks for renewable energy facilities. The purpose of generic distances within existing Commission rules (such as in SP27, WP26, TP29, OP29, and HE24 in the existing Rule 007) is to aid in identifying and consulting with those who may be directly and adversely affected. However, as noted by the Court of Appeal, such distance based regulations are “no evidence of anything” beyond a direction for notice of the initial application.<sup>4</sup>

TransAlta’s reasoning is simple and straightforward. Setbacks must follow measurable and quantitative impacts measured at evidence-based thresholds. While distance in and of itself holds some generalized inverse relationship to impacts, such impacts vary considerably from project to project, and from site to site once mitigation and avoidance measures are accounted for.

The Commission’s Rule 012: *Noise Control* is the archetype for this concept. There are no fixed setback distances under Rule 012 – only permissible sound limits, with specified modifiers based on the surrounding environment.<sup>5</sup>

In TransAlta’s submission, this correctly focuses the Commission’s inquiry on the *effects* of the renewable energy facility, and not its mere proximity. In particular, this supports the purposes of section 17 of the *Alberta Utilities Commission Act*, wherein the Commission is empowered to:

“give consideration to whether construction or operation of the proposed hydro development, power plant, energy storage facility, transmission line or gas utility pipeline is in the public interest, having regard to the social and economic effects of the development, plant, storage facility, line or pipeline and the effects of the development, plant, storage facility, line or pipeline on the environment.” [Emphasis added.]

Applying an evidence-based approach would also promote the purposes of the statutory scheme, by allowing for a flexible framework surrounding decisions

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<sup>4</sup> *Cheyne v Alberta (Utilities Commission)*, 2009 ABCA 348, at paras 27-29.

<sup>5</sup> AUC Rule 012: *Noise Control*, at pdf 7, Table 1, Basic sound levels (BSL) for nighttime.

affecting the electric industry, and a framework for effective regulation that promotes efficiency.

Please contact the undersigned with any questions.

Yours truly,

**TRANSALTA CORPORATION**

A handwritten signature in black ink, appearing to read "Vincent Light". The signature is written in a cursive style with a large initial "V".

Vincent Light  
Legal Counsel, Regulatory