

## Understanding Bill 50

### *Major Players:*

**Energy Utilities Board (EUB):** Prior to 2008, the EUB was the governing body responsible for regulating the entire energy industry in Alberta, including transmission lines, power utilities, and the oil and gas industry. On January 1, 2008, it was dissolved and its duties were divided between the ERCB and the AUC

**Alberta Electric System Operator (AESO):** The AESO is the not-for-profit organization responsible for planning and operating Alberta's electricity distribution system. Under the *Transmission Regulation* the AESO conducts consultations with market participants, forecasts and plans the electricity system, identifies need for transmission infrastructure, creates reliability standards, tariffs, and loss factors.

**Independent System Operator (ISO):** Legislation refers to the ISO, but the AESO performs the ISO's duties.

**Energy Resources Conservation Board (ERCB):** The ERCB is responsible for regulating the Oil and Gas Industry. It answers directly to Cabinet but makes its decisions independently.

**Alberta Utilities Commission (AUC):** The AUC is responsible for regulating utilities in Alberta. The AUC reviews need assessments prepared by the AESO for approval and reviews individual transmission infrastructure and generation applications.

## Transmission regulation in Alberta, a history of conflict: case study

In early 2004, the AESO identified the need for two 500 kilovolt (kV) transmission lines running from Edmonton to Calgary. The AESO stated that these transmission lines would increase the "ability to reliably serve load in central and southern Alberta", increase "export opportunities", increase "the time that transmission elements can be taken out-of-service for maintenance and repair", increase the efficiency of Edmonton-Calgary

transmissions, and reduce a “major impediment to northern generation development” (especially “base load plants in the Lake Wabamun area and future oil sands associated cogeneration plants in the Fort McMurray area”). The AESO submitted a “Need Identification Document” (NID) to the EUB as part of the NID application process necessary to move the project forward. A little over a year later the EUB accepted the application and decided to move the project forward.

The AESO directed AltaLink to build the proposed 500kV transmission lines from Langdon (southeast of Calgary) to the Genesee station west of Edmonton. AltaLink began notifying landowners of its intention to build the lines across their properties. For many landowners, this was the first time that they had heard about the project.

Approximately 2,500 landowners were affected by the proposed project. Concerns were expressed regarding property devaluation, environmental impacts, interference with agricultural production, and health hazards (the strong electromagnetic fields associated with high voltage transmission lines are linked to increased rates of leukemia in children). Many of the affected landowners worked together to form United Power Transmission Area Groups (UPTAG).

#### The much-hated standing test at the AUC and EUB

- Directly and adversely affected people only (since 1960s) Must have a legally recognized interest or right (i.e. property rights), must be distinct from community as a whole. Not the public.
- AUC has required **proof** on balance of probabilities of declining property values, health risks, etc. Cannot cross-examine a superficial company rebuttal. (for example, AUC decision 2008-128)

In 2006, the EUB would only discuss the *suitability* of the west corridor location and not the actual *need* for the project. As a result, only grievances relating to issues like agricultural impacts and population density could be discussed. By December 2006, the EUB had rejected 74 motions deciding not only that the location was suitable, but also that there was no better choice for the location of the transmission lines.

In April 2007, the hearing reconvened and the remainder of the hearing included hecklers, singing grannies, threats of violence, and physical confrontation. Officials responded by turning off microphones. It was later alleged that the EUB had hired four private investigators to infiltrate the

landowners group and provide information back to the EUB board. The proceedings were discontinued after allegations of bias were made.

The Alberta Government responded with Bill 46, the *Alberta Utilities Commission Act*, which came into effect on January 1, 2008, divided the EUB into two separate regulatory bodies: the Energy Resources Conservation Board (ERCB) and the Alberta Utilities Commission (AUC).

However, Bill 46 made no change to the narrow participation rules before the new AUC and further limited any discussion of need to the initial needs hearing, when few landowners have notice of the project. Bill 46 did not include any clear participation rights, such as a right to a hearing for landowners or others. Bill 46 also removed descriptions of what constituted a hearing when one is ordered.

#### **Problems that existed before Bill 50:**

- Identifying need is very subjective, depends on forecast/plan of load and future generation.
- AESO mandate is limited to transmission, doesn't deal with generation. No one plans generation. No one is responsible for conservation or demand management. Therefore any possible generation future scenario or demand scenario can be translated into "need."
- AESO does not have energy conservation, distributed generation or demand management responsibilities.
- Public doesn't have right to participate in forecasting and planning. Consultation is limited to "market participants" under the *Transmission Regulation*.
- Few people are able to participate in the need identification proceeding before the AUC. No right to a hearing. No enumerated hearing process.

#### **The Result?**

- Some people cannot participate at all.
- "directly and adversely affected" people participate in the end, at the permit application hearing, but cannot talk about alternatives to transmission: conservation, distributed local generation, etc.
- AUC gives few people standing, won't talk about need anymore or discuss alternatives. No right to be heard.
- The public interest is not well-served.



## About Bill 50

*The Electric Statutes Amendment Act, 2009* (in force as of Dec 9, 2009) passed Nov 25, 2009.

- Amends 3 statutes: *Alberta Utilities Commission Act, Electric Utilities Act, and the Hydro and Electric Energy Act.*
- Creates new category of "Critical Transmission Infrastructure" (CTI)
- Adds regulation-making powers and Cabinet power to designate CTI
- Designates critical transmission projects

Bill 50 adds new powers for Cabinet by adding s.41.1(1) to the *Electric Utilities Act*. This allows Cabinet to designate as "critical" any transmission project contained in an AESO plan that is:

- A connection to another jurisdiction;
- To serve "areas of renewable energy";
- Designed at or in excess of 240Kv; or
- In Cabinet's opinion is "critical" to the safe, reliable and economic operation of the interconnected electric system.

Bill 50 allows Cabinet to designate a wide variety of transmission infrastructure including any large transmission project, project for renewable energy or any other project that is in Cabinet's opinion "critical." The Bill itself designates three transmission infrastructure projects critical.

The term "critical" is not defined, and it is unclear whether it is synonymous with long-term needs generally, or is intended to apply only to situations of urgency.

### **There are also new regulation powers in Bill 50:**

(v.1) respecting the planning, development, construction and operation of transmission facilities, including

- (A) critical transmission infrastructure,
- (B) interties, and
- (C) transmission facilities to serve areas of renewable energy,

\* in 2009 the *Transmission Regulation* was amended and includes some provisions for interties and CTI.

**New in Bill 50:**

- Cabinet has a new power: “critical” designation. Few constraints.
- When a line or substation is designated, Bill 50 removes need proceedings before the AUC
- AESO no longer prepares detailed need justification (needs identification document) for review by the AUC
- No public consultation rights on needs issues, alternatives (conservation).

**November 24 amendments:**

- Phased implementation of new lines: AESO to publish “milestones”
- cost reporting
- public interest put back into the permit hearing, so AUC has *some* jurisdiction

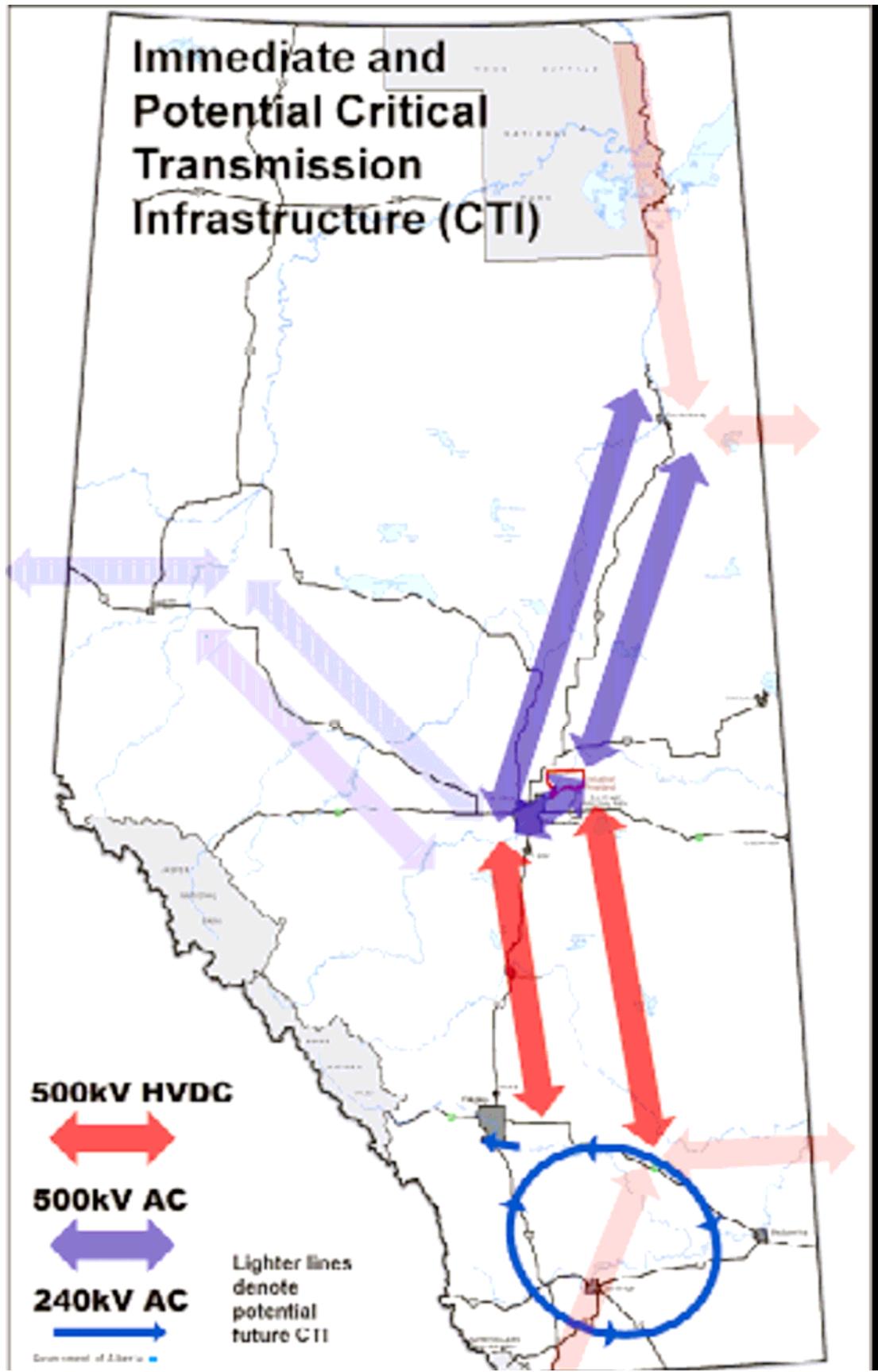
**Designated CTI in Bill 50:**

Two high voltage 500 kV direct current transmission facilities between the Edmonton and Calgary regions.

One transmission line connecting on the south side of the City of Edmonton and to a new substation to be built in the Gibbons - Redwater region.

A new 240 kV substation to be built in the southeast area of the City of Calgary.

Two 500 kV transmission facilities from the Edmonton area to Fort McMurray (Thickwood hills to Brintnell, Brintnell to Keephills-Genesee and Thickwood to Gibbons-Redwater).



## What Bill 50 does not do

July 2009 AESO “plan” also identified other projects as “critical” but Cabinet has not designated them all.

### *The southern hub*

The AUC already approved the need for two double circuit 240 kV lines and a new 500 kV substation connecting to the 240 kV network in the South region to interconnect a significant renewable generation source (wind power).

“The Southern hub is central to substantial renewable generation development potential in southeastern Alberta. Interest in wind generation development is at high levels such that the area will grow into a very large renewable energy zone. The Southern hub is also likely to be central to future interties with provinces to the east and the U.S. to the south.” (AESO July 2009 plan p.49)

>7,500MW of wind applications received by AESO in that region alone.

### **July 2009 AESO “plan” Additional CTI (next ten years)**

Two 500 kV AC lines from the Wabamun Lake/Edmonton area to the Northwest region (Peace River) to accommodate large-scale biomass or “low-emission generation” (i.e. nuclear) and an HVDC line or equivalent to a potential major hydroelectric generation facility in the Northeast region.

Options for new interties to neighbouring jurisdictions are currently being assessed:

- southern Alberta to the U.S. Pacific Northwest
- southern Alberta to Saskatchewan and Manitoba
- between northern Alberta and northern B.C.
- between northern Alberta and northern Saskatchewan

Bill 50 does not do:

- Doesn’t fix limitations of need identification or planning from pre-Bill 50 process.
- AESO still prepares a transmission “plan” with discussion of generation forecasts (example, July 2009)
- Transmission lines are still exempt from approvals and EA process under the EPEA (since 2008)
- AUC still considers site issues, although powers are now more limited

- No change in process where transmission is not designated critical by Cabinet after plan prepared.
- Does not change “standing” to appear before AUC.

## Moving forward under Bill 50, challenges and opportunities

From a participation perspective, Bill 50 makes participating early on in planning much more important. It also makes political action at the Cabinet level early on more important.

Permit hearings before the AUC under CTI are likely to be ugly in comparison even to past hearings, because the relationship between the cabinet designation and AUC jurisdiction is still unclear after the amendments to Bill 50. It will be interesting to see how the AUC interprets its jurisdiction in these hearings.

Standing, rights to a hearing, and needs/planning problems still need to be pursued on a policy level, as before. Public participation and landowner rights vs. anti “red tape” mentality continues to be a problem of imbalance.

Bill 50 creates opportunities in the development of future regulations for CTI and interties – put pressure on the government now to make good regulations.

Bill 50 does raise the prospect of exports because of plans for several interties.

Bill 50 is related to nuclear power because of proposed CTI in the Northwest.

Most landowners were unable to participate in needs hearings under the pre-Bill 50 regime and won't notice much difference in the case of any designated critical infrastructure.