



Alberta Electric System Operator

AESO Recovery of Costs for Keephills-Ellerslie-Genesee Conversion of Unit Transformers

October 21, 2008



ALBERTA UTILITIES COMMISSION

Decision 2008-101: Alberta Electric System Operator

AESO Recovery of Costs for Keephills-Ellerslie-Genesee Conversion of Unit Transformers

Application No. 1568182

Proceeding ID. 28

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**ALBERTA ELECTRIC SYSTEM OPERATOR
AESO RECOVERY OF COSTS FOR KEEPHILLS-
ELLERSLIE-GENESEE CONVERSION OF UNIT
TRANSFORMERS**

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1 INTRODUCTION

The Alberta Electric System Operator (AESO) filed an application (Application) on April 14, 2008, with the Alberta Utilities Commission (AUC or the Commission) for recovery of certain costs related to the conversion of four unit transformers at the Genesee Generating Station. The AESO stated in the Application that based on discussions with the owners, EPCOR Power Development Corporation, EPCOR Power (Genesee) Limited Partnership, and TransAlta Energy Corporation (Generation Owners) of generating units 1, 2 and 3 at Genesee, certain work was required to convert four Genesee unit transformers from 240 kV operation to 500 kV operation. These improvements were approved by the Commission's predecessor, the Alberta Energy and Utilities Board (Board) in Permit and Licence No.'s U2006-115, U2006-116, and U2006-117.

The relief requested in the Application was as follows:

- Approval for the direct costs of the Keephills-Ellerslie-Genesee (KEG) Conversion of Unit Transformers to be paid by the AESO to the Generator Owners upon presentation of acceptable documentation to substantiate their quantum and reasonableness, and that such actual direct costs be recovered under the AESO's tariff;
- Determination as to whether the indirect costs of the conversion of unit transformers were:
 - (a) payable by the AESO to the Generator Owners;
 - (b) if so, the quantum of such indirect costs payable by the AESO to the Generator Owners; and
 - (c) that such indirect costs as were found by the Commission to be payable by the AESO to the Generator Owners shall be recovered under the AESO's tariff;
- Confirmation that the actual costs of the conversion of unit transformers, as determined by the Commission to be recoverable under the AESO's tariff, would be subject to necessary deferral treatment consistent with such treatment generally accorded by the Commission concerning the AESO's forecast revenue requirement; and
- Other relief as the Commission may deem necessary.

Notice of Application was issued on April 16, 2008.

The Commission received Statements of Intent to Participate (SIPs) from the following parties:

- Alberta Direct Connect Consumer Association (ADC)
- ATCO Electric Ltd. (AE)
- BP Canada Energy Company (BP)
- EPCOR Utilities Inc. (EUI)
- Industrial Power Consumers Association of Alberta (IPCAA)
- Inter Pipeline Fund (IPF)
- TransAlta Corporation (TransAlta)
- TransCanada Energy Ltd. (TCE Ltd.)
- Office of the Utilities Consumer Advocate (UCA)

In its letter of May 26, 2008(Letter), the Commission indicated that it would consider the AESO's application in two modules. The first module would address the issue of direct costs (Direct Cost Module), and the second module would address the issue of indirect costs (Indirect Cost Module).

Indirect Cost Module

On July 7, 2008, EUI and TransAlta, on behalf of the Generator Owners, submitted letters stating that neither party would be requesting recovery of indirect costs, as defined by the AESO in the Application. Further, both parties requested that the Commission not proceed with the Indirect Cost Module nor determine the question of payment of indirect costs in this case.

As no indirect costs were being requested by either EUI or TransAlta, the Commission found that there was no longer any requirement to proceed with the Indirect Costs Module. The Commission cancelled the Indirect Costs Module and in doing so, made no decision regarding the appropriateness of claiming indirect costs (as defined by the AESO in the Application) in this Application or with respect to any claim for such costs in any future application.

Direct Cost Module Process

The Commission initiated the Direct Cost Module by issuing Commission Information Request (IR) No. 1 to the AESO in conjunction with its Letter. The AESO supplied its response to the Commission IR No. 1 on June 16, 2008. The Commission, by way of a June 19, 2008 letter, invited registered parties to submit IRs on the Direct Cost module by June 26, 2008. The UCA was the only party to submit IRs. The AESO submitted responses to the UCA IRs on July 3, 2008.

The Commission invited parties to submit Argument and Reply in the Direct Cost Module in accordance with the following schedule:

Submission of Argument	July 24, 2008
Submission of Reply Argument	August 7, 2008

The close of record for this proceeding was August 7, 2008.

2 DISCUSSION AND FINDINGS

2.1 Direct Cost Module

The AESO stated that the Generator Owner's estimate of the direct costs of \$4,534,068 was accurate within +/- 30 percent. The AESO considered these costs to be reasonable and argued that the cost of maintaining a safe and reliable supply from the Genesee generators would be significantly higher if the unit transformer upgrade had not been undertaken.

The UCA opposed the request by the AESO to recover the direct costs through the AESO tariff in order to pay the Generator Owners. The UCA argued that the Generator Owners should be responsible for the direct costs of the unit transformer conversion because the *Electric Utilities Act* (EUA) did not give the Commission authority to include these costs in the AESO tariff as these costs were not transmission facility owner's costs. As well, the UCA submitted that the Generator Owners will benefit from the transformer conversion and therefore paying their direct costs by way of the AESO tariff would subsidize their profits and impact competitive market forces. Finally, the UCA was concerned that approving the payment of the direct costs to the Generator Owners through the AESO tariff would establish a precedent whereby future transmission upgrades may result in other generators seeking upgrades to be paid for by transmission system users.

The UCA requested that the Commission establish a general policy prohibiting the AESO from making payments to generators in respect of assets which are not part of the Transmission System as defined in the EUA.

The AESO responded to the UCA's argument regarding the Commission's jurisdiction to approve non-transmission owner costs by referencing section 122(2) of the EUA. The AESO submitted that this statutory provision clearly granted the Commission ample authority to approve recovery of the direct costs through the AESO's tariff, provided the Commission concluded that the direct costs of the transformer conversion were prudent and appropriate.

EUI and TransAlta also referenced section 122(2) of the EUA in support of recovery of direct costs by the AESO for payment to the Generator Owners.

The AESO stated that the UCA's concern that generators may benefit from the transformer conversion was not an issue to be considered by the Commission in this proceeding while EUI responded that the UCA did not explain what the supposed benefits to generators were nor offer any evidence to support this claim.

The AESO responded to the UCA's concerns about the potential precedent setting nature of this Application by stating that this application was unique on its facts and afforded no basis for the establishment of any general policy. Further, the AESO argued that these issues were raised for the first time in argument and as such were without any evidentiary basis in this proceeding.

The Commission considers the issues to be determined are as follows:

1. Does the Commission have the authority to approve recovery of the Owner's direct costs by the AESO through its tariff?
2. Are the direct costs prudent?

3. Are generator benefits an issue to consider?
4. Should the Commission develop a general policy concerning payment for assets of this nature which are not part of the Transmission System?

Each of these issues is discussed in the sections that follow.

Authority to Approve Recovery of the Direct Costs

The starting point of statutory interpretation is the ordinary meaning rule. *Sullivan and Driedger on the Construction of Statutes* (4th edition) at page 20 summarizes the rule as follows:

...interpretation properly begins with ordinary meaning – with reading words in their grammatical and ordinary sense – but it does not stop there. Interpreters are obliged to consider the total context of the words to be interpreted in every case, no matter how plain those words may seem upon initial reading.

In *ATCO Electric Ltd. v. EUB*, [2004] 11 W.W.R. 220 at paragraph. 127, the Alberta Court of Appeal summarized the principles of statutory interpretation as applied in Alberta:

In interpreting the Board's roles and responsibilities under the applicable statutory legislation, one must bear in mind that this is governed by the purposive and contextual approach to statutory interpretation repeatedly endorsed by the Supreme Court of Canada: *Rizzo & Rizzo Shoes Ltd., Re*, [1998] 1 S.C.R. 27 (S.C.C.); *Bell ExpressVu Ltd. Partnership v. Rex*, [2002] 2 S.C.R. 559, 2002 SCC 42 (S.C.C.). The purposive approach requires that a court assess legislation in light of its purpose since legislative intent, the object of the interpretive exercise, is directly linked to legislative purpose. The contextual approach requires, in turn, that the words chosen must be assessed in the entire context in which they have been used. Any attempt to deduce legislative intent therefore cannot be undertaken in a vacuum: *Love v. Flagstaff (County) Subdivision & Development Appeal Board* (2002), 317 A.R. 261, 2002 ABCA 292 (Alta. C.A.), at paras. 20-21.

The EUA has established a specific legislative scheme with regard to regulation of the AESO. With respect to consideration of the AESO tariff, subsections 122 (2) and (3) are meant to apply specifically to the AESO. These sections read as follows:

122(2) When the Independent System Operator is the applicant for tariff approval, the Commission must have regard for the principle that a tariff approved by it must provide the Independent System Operator with a reasonable opportunity to recover all of the items referred to in subsection (1) **that are applicable to the Independent System Operator.** (emphasis added)

(3) The Commission shall not decide that the ISO tariff fails to satisfy the requirements of section 121(2)(a) or (b) simply because the tariff provides for the flow through, including by the use of deferral accounts, real time pricing or other mechanisms, of some or all of the Independent System Operator's prudent costs and expenses of carrying out its duties, responsibilities and functions.

Section 122(3) of the EUA references section 121(2) of the EUA which states:

121(2) When considering whether to approve a tariff application the Commission must ensure that
(a) the tariff is just and reasonable,

(b) the tariff is not unduly preferential, arbitrarily or unjustly discriminatory or inconsistent with or in contravention of this or any other enactment or any law.

In addition, section 30 of the EUA states, *inter alia*:

ISO tariff

30(1) The Independent System Operator must submit to the Commission, for approval under Part 9, a single tariff setting out ...

(2) The rates to be charged by the Independent System Operator for each class of service must reflect the prudent costs that are reasonably attributable to each class of system access service provided by the Independent System Operator, and the rates must

(a) be sufficient to recover

...

(iv) any other prudent costs and expenses the Commission considers appropriate,

This latter provision supports the view that the Commission has the authority to approve any costs that are prudently incurred by the AESO provided that these costs are appropriately incurred as part of the duties and responsibilities of the AESO.

Section 29 establishes the responsibility of the AESO to provide system access service. It states:

Providing system access service

29 The Independent System Operator must provide system access service on the transmission system in a manner that gives all market participants wishing to exchange electric energy and ancillary services a reasonable opportunity to do so.

In the Commission's view it is not enough to have nondiscriminatory access to the Alberta Interconnected Electric System (AIES). The grid itself must be robust enough to operate reliably and support competitive markets. Further, section 17 (h) of the EUA requires the AESO to direct the safe, reliable and economic operation of the interconnected electric system.

The evidence of the AESO in this application is that the transformer upgrades are necessary for the continued safe, reliable and economic operation of the AIES.

The Commission finds that the statutory references above permit the AESO to recover the direct costs in the AESO tariff provided that the costs incurred are prudent.

Prudence of the Direct Costs

As set out in the Application at paragraph 9, the current estimates of the direct costs total \$4,534,068 with an accuracy of +/- 30 percent. Further, it is the evidence of the AESO that of the total estimated direct costs, approximately 90% will relate to charges for labour.¹

The Commission requested that the AESO explain the process it had followed to ensure the reasonableness of the quantum of direct costs.

¹ AESO Information Response UCA-AESO 2(a)

The AESO responded that:

“The AESO requested and received from EPCOR Generation, on a confidential basis, detailed cost estimates for the conversion work which enabled the AESO to carry out its review and to seek additional clarification regarding the associated scope and cost estimates. The AESO held several detailed discussions with EPCOR Generation to ensure a complete familiarization of the work, associated schedule and estimated costs. Given the critical nature of the work involved appropriate care and attention was given to the detailed steps including the appropriate level of apparatus testing to ensure equipment integrity prior to actually energizing the transformers.

The AESO applied its own judgment, based on its experiences on other substation projects, with respect to assessing the reasonableness aspect of the transformer conversion project scope and associated cost estimates. For example, other 500 kV work, of a similar nature was also being carried out at Ellerslie and Keephills substations which included installation of 240/500 kV transformers.

As noted in paragraph 9 of the application, the agreements between the AESO and the Owners incorporate certain audit rights in favour of the AESO in respect of the costs of the Unit Transformer Project actually incurred in order that the AESO may be satisfied that such actual costs are reasonable.”²

No further evidence regarding the quantum of direct costs was provided nor did any interested party comment on the prudence of the direct costs estimated for the project.

The Commission is satisfied that the AESO has been diligent in managing the quantum of direct costs associated with the unit transformer conversion, and therefore considers the estimate of direct costs to be prudent.

Consideration of Generator Benefits

As noted above, the UCA, in its argument, submitted that the Generator Owners will benefit from the transformer conversion and therefore paying their direct costs by way of the AESO tariff would subsidize their profits and impact competitive market forces.

The UCA filed no evidence to support this assertion.

It is the evidence of the AESO, as set out in the Application, that the unit transformer conversion work was performed for the benefit of the AIES, and is considered by the AESO to be the least cost alternative to provide this benefit.

The Commission finds, on the basis of the evidence before it, that the unit transformer conversion work was performed directly for the benefit of the AIES, and that the issue of tangential generator benefits is not supported by any evidence and will not be considered further in this Decision.

² AESO Information Response AUC-AESO-1(c)

Development of General Policy

The Commission has considered the UCA request that the Commission establish a general policy to prohibit the payment of the direct costs to the generator owners through the AESO tariff in the future.

In response to the question from the UCA to the AESO respecting whether the AESO would be opposed to the creation of such a policy, the AESO stated, *inter alia*,:

In the AESO's opinion, the facts and circumstances of other situations would have to be examined in order to determine whether, as in this case, direct costs should be paid.

In this case, the circumstances are unique, and warrant the relief requested.³

In addition, the AESO stated in its response to Information Request UCA- AESO – 1 that it was not aware of any past decisions under which a similar payment has been authorized.

The Commission finds, on the basis of the evidence before it, that this application is unique. Consequently it does not see the need to develop a general policy at this time concerning payment for assets which are not part of the Transmission System.

³ AESO Information Response UCA-AESO-4(a)

3 ORDER

IT IS HEREBY ORDERED THAT:

- (1) The actual direct costs of the unit transformer conversion be paid by the AESO to the Generator Owners upon presentation of acceptable documentation to validate the quantum.
- (2) The AESO include these direct costs in its next Deferral Account application.

Dated in Calgary, Alberta on October 21, 2008.

ALBERTA UTILITIES COMMISSION

(original signed by)

Carolyn Dahl Rees
Vice-Chair

(original signed by)

Bill Lyttle
Commissioner

(original signed by)

N. Allen Maydonik, Q.C.
Commissioner