

Appendix A

Module C Payment Plan

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Milner Power Inc. and ATCO Power Ltd. Complaints Regarding ISO Transmission Loss
Factor Rule and Loss Factor Methodology
Proceeding 790 Module C

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1. Introduction

Module C of Proceeding 790 determined the methodology to be used for recalculating loss factors for the historical period of January 1, 2006 to December 31, 2016, as well as to whom the Alberta Electric System Operator (“AESO”) must reissue invoices (for charges or credits) for that period.

In Decision 25150-D01-2020, the Alberta Utilities Commission (“Commission”) granted the AESO’s application in Proceeding 25150 to review the Commission’s order in Decision 790-D06-2017 to implement single settlement for recalculated loss factors for all years in the historical period of January 1, 2006 to December 31, 2016. In Decision 25150-D02-2020, the Commission varied the single settlement order and directed the AESO implement an alternative settlement approach using three settlement periods, including one of three years, and two four-year periods for the historical period, with simultaneous collection and reimbursement of each period, pursuant to the ISO tariff.

In Decision 790-D06-2017, the Commission approved a 60-day due date delay and supported the AESO’s efforts to establish a credit facility and payment plan for eligible parties to mitigate the risk that a settlement invoice would compromise an Eligible Entity’s financial stability. The Commission directed the AESO to develop the structure, terms and eligibility criteria for its proposed payment plan and file it with the compliance filing to the decision.

2. Definitions

- (a) **“Acceptable Accounting Standards”** means, at any time, accounting principles generally accepted in Canada as recommended in the *CPA Canada Handbook - Accounting* at the relevant time applied on a consistent basis (except for changes made with the prior written consent of the AESO and approved by the Eligible Entity’s independent auditors in accordance with promulgations of the Chartered Professional Accountants Canada), and includes the International Financial Reporting Standards;
- (b) **“Acceptable Credit Rating Agency”** means Dominion Bond Rating Service, Standard & Poor’s, and Moody’s Investor Service, and any other credit rating agency that is acceptable to the AESO in its sole discretion;
- (c) **“Agreement”** means the form of credit agreement attached as Appendix A.2, as it may be amended, restated, or replaced from time to time, between the Eligible Entity participating in the Payment Plan as the Borrower and the AESO as the Lender;
- (d) **“BA Rate”** means the thirty (30) day bankers’ acceptance rate that the AESO receives from its lenders from time to time plus eighty (80) basis points, or such other amount as agreed to between the AESO and its lender prior to entering into the Agreement;
- (e) **“CDOR Rate”** means the Canadian Dollar Offered Rate that the AESO receives from its lenders from time to time plus eighty (80) basis points, or such other amount as agreed to between the AESO and its lenders prior to entering into the Agreement;

- (f) **"Current Assets"** means, as of any date, the aggregate amount of cash, cash equivalents and short-term investments and receivables that will be converted to cash within one (1) year as set forth in the Financial Statements and calculated in accordance with Acceptable Accounting Standards;
- (g) **"Current Liabilities"** means, as of any date, the aggregate amount of short-term debt, accounts payable, accrued liabilities or other liabilities all of which are required to be settled within one (1) year as set forth in the Financial Statements and calculated in accordance with Acceptable Accounting Standards;
- (h) **"Debt Service Coverage Ratio"** means the ratio of: (i) the sum of net pre-tax income of the Eligible Entity as set forth in the Financial Statements, and based upon the preceding twelve (12) months, plus interest expense (including an estimate of interest expense calculated on the basis of financing the value of the Final Settlement Statement balance over a term and interest rate deemed commercially reasonable for the Eligible Entity) and allowances for depreciation and amortization for such period, to the extent the foregoing are deducted in determining net pre-tax income, to (ii) the cumulative interest and principal payments on debt over the same period (including an estimate of interest and principal payments calculated on the basis of financing the value of the Final Settlement Statement balance over a term and interest rate deemed commercially reasonable for the Eligible Entity). In calculating pre-tax income, material items which would be treated as extraordinary income or extraordinary expenses under Applicable Accounting Standards shall be excluded;
- (i) **"Debt-to-Equity Ratio"** means, as of any date, the ratio of Total Debt to Total Equity as set forth in the Financial Statements;
- (j) **"Eligible Entity"** means a current or former market participant who has been issued invoices by the AESO for line loss charges in accordance with Alberta Utilities Commission Decisions 790-D06-2017 and 25150-D02-2020;
- (k) **"Final Settlement Statement"** means the final statement issued on the fifteenth (15th) business day of the month in which a Preliminary Statement is issued, and which is required to be settled on the Settlement Date by wire payment or through an executed final Agreement under the Payment Plan;
- (l) **"Financial Statements"** means the most recent of the quarterly or annual financial statements of the Eligible Entity and its Subsidiaries, on a consolidated basis, prepared in accordance with Acceptable Accounting Standards, certified to be accurate by an officer of the Eligible Entity and otherwise in form and substance satisfactory to the AESO;
- (m) **"Historical Settlement Period"** means any of the periods from (i) January 1 to December 31 for each of 2016, 2015 and 2014, (ii) January 1 to December 31 for each of 2013, 2012, 2011 and 2010, and (iii) January 1 to December 31 for each of 2009, 2008, 2007 and 2006.

- (n) **“Loss Factor Recalculations Posting”** means the posting of one calendar year of loss factor recalculations for each year from and including 2006 through 2016, which is published on the AESO external website (<https://www.aeso.ca>) within five (5) business days of the date on which the recalculation of loss factors for that year is determined to be complete and accurate by the AESO;
- (o) **“Payment Plan”** means, collectively, this document, Appendix A.1 and Appendix A.2.
- (p) **“Preliminary Settlement Statement”** means the CSV formatted data and invoice detail provided to Eligible Entities on the fifth (5th) business day of the month, which day is at least thirty (30) days from the Loss Factor Recalculations Posting;
- (q) **“Prime Rate”** means the floating rate of interest per annum established by the Bank of Montreal as its Canadian prime rate in effect from time to time, adjusted automatically with each quoted or published change in such rate, all without the necessity of any notice to the Eligible Entity or any other person;
- (r) **“Settlement Date”** means the Final Settlement Statement due date, which is at least sixty (60) days from the date on which Final Settlement Statements are issued and is the twentieth (20th) business day of a month;
- (s) **“Subsidiary”** has the meaning specified in the *Business Corporations Act* (Alberta) on the date hereof;
- (t) **“Total Debt”** means, as at the relevant date, all obligations of the Eligible Entity for money borrowed (including the value of the Preliminary Settlement Statement balance), including all long-term senior and subordinated indebtedness, all short-term indebtedness, the stated amount of all letters of credit issued for the account of the Eligible Entity or any of its Subsidiaries and (without duplication) all unreimbursed draws thereunder (but excluding trade letters of credit), net of cash (other than working capital) or cash equivalent securities, as set forth in the Financial Statements for such date; and
- (u) **“Total Equity”** means, as at the relevant date, the value of the total assets less total liabilities of the Eligible Entity, as set forth in the Financial Statements for such date.

3. Settlement Timing

The AESO publishes the loss factor recalculations on the AESO external website (<https://www.aeso.ca>) as each year becomes available. The AESO will issue Preliminary Settlement Statements to Eligible Entities on the fifth (5th) business day of the month that is:

- (a) at least five (5) business days after the day on which the Commission approves the Payment Plan, for each Historical Settlement Period in respect of which all Loss Factor Recalculations Postings have been made prior to the Commission’s approval, and

- (b) for each remaining Historical Settlement Period, at least thirty (30) days after the day on which the last Loss Factor Recalculations Posting for the Historical Settlement Period has been made.

Final Settlement Statements will be issued on the fifteenth (15th) business day of the month in which Preliminary Settlement Statements are issued. In accordance with Decision 790-D06-2017, the final invoice due date, cash settlement, will be on the Settlement Date.

4. Participation in the Payment Plan

An application for participation in the Payment Plan by an Eligible Entity must be submitted within five (5) business days of the issuance of Preliminary Settlement Statements for a Historical Settlement Period (the “**Submission Deadline**”).

The application instructions and form are attached as Appendix A.1 to this Payment Plan and will be made available on the AESO website within two (2) business days from the day on which the Commission approves this Payment Plan. Requests for forms or information can also be made to the AESO Accounting department via the contact information contained herein.

The AESO will evaluate each application and provide the Eligible Entity with approval, request for additional information or declination within fifteen (15) business days of receipt. The AESO will provide a current, indicative interest rate with any statement of approval that reflects adjustments due to timing of settlement and participation in the Payment Plan (refer to *Terms and Indicative Interest Rate* section herein). Such terms are subject to modification pending execution of the final Agreement between the AESO and its lender.

Any additional information requested by the AESO must be submitted by an Eligible Entity within five (5) business days of the AESO’s request. The AESO will evaluate the additional information submitted and provide the Eligible Entity with approval or declination within ten (10) business days of receipt of the additional information.

It is important to note that, even if the AESO approves an application, the AESO may, in its sole discretion, determine the amount of credit that it is prepared to advance to an Eligible Entity based on the information provided by the Eligible Entity, which amount may be less than the Eligible Entity’s Final Settlement Statement balance.

If the AESO approves an Eligible Entity’s application, the Eligible Entity will be provided a final Agreement at least ten (10) business days prior to the Settlement Date, which must be fully executed and returned to the AESO at least three (3) business days prior to the Settlement Date. The Agreement also contains other standard conditions precedent which must be satisfied at least three (3) business days prior to the Settlement Date.

5. Demonstrating Financial Hardship

The application must demonstrate that payment of the balance owing within the sixty (60) days allotted for the due date would create a financial hardship for the Eligible Entity. A financial hardship will be determined if **all** of the following conditions are met, as determined by the AESO in its sole discretion:

- (a) **Insufficient Liquidity:** insufficient liquidity is defined as a current ratio value of less than one (1) for which the value is calculated for an Eligible Entity as the ratio of: (i) the Current Assets to (ii) the Current Liabilities, plus (iii) the value of the Eligible Entity's Preliminary Settlement Statement balance to the extent not already recognized.
- (b) **Lack of Available Financing:** lack of available financing is defined as a value equal to or less than the Eligible Entity's Preliminary Settlement Statement balance for which the value is calculated as the Eligible Entity's available or unused credit facilities, as of the date of the Eligible Entity's application for participation in the Payment Plan.
- (c) **Inability to Obtain Financing:** this may be demonstrated by the following factors:
 - (i) Debt Service Coverage Ratio < 1.5;
 - (ii) Debt-to-equity Ratio > 2;
 - (iii) credit rating grade of BB or lower from an Acceptable Credit Rating Agency or no rating; and
 - (iv) the AESO may, in its sole discretion, consider and review such other relevant documentation or supporting evidence provided for consideration by the Eligible Entity to the AESO when evaluating the Eligible Entity's inability to obtain financing.

In the event that not all of the above conditions are met, and the Eligible Entity has mitigating circumstances, evidence to support such circumstances may be provided and will be reviewed for consideration by the AESO in its sole discretion. Mitigating circumstances may include financial and operational cash flow requirements and constraints, industry conditions or existence of firm commitments and contingencies. The Final Settlement Statement balance may also be reviewed for consideration by the AESO in its sole discretion, if the Final Settlement Statement balance is available and differs from the Preliminary Settlement Statement balance.

6. Terms, Indicative Interest Rate and Commitment Fee

The form of Agreement to be entered into is attached hereto as Appendix A.2.

Actual participation in the Payment Plan could vary significantly due to eligibility criteria and final settlement amounts. Given substantial uncertainty around participation and the timing of settlement, the AESO has obtained an indicative credit facility term sheet, which includes an anticipated interest rate and commitment fee applicable to the AESO as stated below. The interest rate and commitment fee are subject to modification to reflect final terms provided to the AESO by the AESO's lenders in securing a credit facility. The general terms of the Payment Plan are:

- (a) **Indicative Interest Rate:** the BA Rate or CDOR Rate, for which the choice between the two rates, at any given time and from time to time, shall be made by the AESO (which is based on what is applicable to the AESO under its own credit facilities).
- (b) **Commitment Fee:** eight (8) basis points on the loan amount.
- (c) **Facility Term:** two (2) years.
- (d) **Prepayments:** prepayments require at least four (4) business days' notice and must be made on the twentieth (20th) business day of a month.

Interest, the commitment fee, and principal will be due and payable in accordance with the Agreement. The BA Rate or CDOR Rate, as applicable, will be provided (refer to *Invoicing* section herein) on the twentieth (20th) business day of each month and is applicable until the nineteenth (19th) business day of the following month.

7. Invoicing

The AESO will provide statements by e-mail, to Eligible Entities whom have entered into an Agreement with the AESO, on the twentieth (20th) business day of each month throughout the term of the Agreement. Each statement will provide the BA Rate or CDOR Rate applicable from the statement date through the nineteenth (19th) business day of the following month, inclusive, as well as the interest and principal due on the twentieth (20th) business day of the month following the statement date.

Repayment under the Agreement will begin on the twentieth (20th) business day following the Settlement Date.

All payments under the Agreement are to be made by wire to the account of the AESO. Wire instructions will be provided with the first statement and can be requested from the contact identified herein.

Refer to the form of the Agreement attached in Appendix A.2 for further terms.

8. Contacts

Submission of forms or requests for information can be made to:

Nicole Kinch, CPA, CA, CPA (WA, USA)
Director, Finance – Accounting & Treasury
Alberta Electric System Operator (AESO)
2500, 330 – 5th Avenue SW
Calgary, AB T2P 0L4

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