



**Commission-Directed Examination of
Distribution Facility Owner Payments under the
Independent System Operator Tariff Customer
Contribution Policy**

April 23, 2021

Alberta Utilities Commission

Decision 26061-D01-2021

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Independent System Operator Tariff Customer Contribution Policy
Proceeding 26061

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Contents

1	Decision summary	1
2	Details of the application and procedural background	2
3	Discussion of issues and Commission findings	3
3.1	Is the current treatment of customer contributions supported by the legislative framework?	3
3.1.1	Legislative framework	5
3.1.2	AESO tariff and history of customer contribution policy.....	9
3.1.3	Recovery of customer contribution costs within the DFO tariff.....	17
3.1.3.1	Payment does not equate to ownership.....	17
3.1.3.2	Legislative provisions establishing the recovery of costs through a DFO tariff	19
3.1.3.3	DFO recovery of AESO customer contributions	25
3.1.3.3.1	Cost-of-service treatment of customer contributions.....	26
3.1.3.3.2	PBR treatment.....	27
3.1.4	Conclusion to Question 1: Is the current treatment of customer contributions supported by the legislative framework?	29
3.2	What effect, if any, do the incentives in PBR and cost-of-service rate regulation have on achieving the objectives of the ISO contribution?	29
3.3	Addressing the identified incentives	33
3.4	Effective date of the revised accounting treatment.....	35
4	Order	37
	Appendix 1 – Proceeding participants	38
	Appendix 2 – Oral argument and reply argument – registered appearances	39
	Appendix 3 – Summary of Commission directions	40

1 Decision summary

1. In Decision 22942-D02-2019,¹ dealing with the Alberta Electric System Operator's (AESO) 2018 tariff, the Alberta Utilities Commission approved changes to the recovery and treatment of contributions in aid of construction (CIAC or AESO customer contributions) paid by distribution facility owners (DFOs) to the AESO. These findings were varied in Decision 24932-D01-2020.² In its variance decision, the Commission advised that it would further examine the treatment and recovery of these contributions in a further proceeding. It has done so in this proceeding.

2. In this decision, the Commission has determined that:

- (a) The legislative framework applicable to electric utilities supports the payment of customer contributions to the AESO as part of the AESO's tariff.
- (b) No changes to the AESO's customer contribution policy currently set out in the approved AESO tariff are directed.
- (c) The legislative framework applicable to electric utilities permits the current DFO tariff recovery mechanism of AESO customer contribution payments made by a DFO.
- (d) The current DFO tariff recovery mechanism applicable to AESO customer contributions fails to provide effective price signals to incent the end-use customers to choose the most economical connection solution. To better achieve the objectives of the AESO customer contribution policy, (i) DFOs will no longer be permitted to earn a return (i.e., return-on-equity component) on any AESO customer contribution payments; and (ii) to the extent possible, customer contributions are to be flowed through to the DFO customer that is requesting the new connection.
- (e) A revised accounting mechanism for the recovery of future AESO customer contribution payments in a DFO tariff will be examined in a further proceeding. DFOs are directed to file one or more proposal(s) for a revised accounting treatment for the recovery of future AESO customer contributions that achieve the objectives set out in this decision by May 31, 2021.

¹ Decision 22942-D02-2019: Alberta Electric System Operator, 2018 ISO Tariff Application, Proceeding 22942, September 22, 2019.

² Decision 24932-D01-2020: Commission-Initiated Review and Variance of Decision 22942-D02-2019, Proceeding 24932, November 4, 2020.

- (f) Changes to the DFOs tariff recovery mechanism are to be applied on a prospective basis to new AESO customer contributions, effective as of the date of this decision. AESO customer contributions made by DFOs for new projects following the date of this decision are directed to be tracked as placeholder amounts and will be accounted for according to the revised accounting treatment approved by the Commission.
- (g) AESO customer contributions made by DFOs prior to the date of this decision shall continue to be treated according to the current DFO tariff recovery mechanism that allows the contribution costs to be capitalized and included in rate base until those contribution amounts have been fully depreciated.
- (h) Alternative AESO customer contribution refund proposals, including the one proposed by AltaLink, that allow a TFO to earn a return on an AESO customer contribution, also fail to provide an effective price signal and are not approved.

2 Details of the application and procedural background

3. On November 4, 2020, the Commission issued Decision 24932-D01-2020, which considered a review and variance of Section 8.1 of Decision 22942-D02-2019. In Decision 24932-D01-2020, the Commission rescinded certain findings made in Section 8.1 of Decision 22942-D02-2019 and advised that it would examine in a further proceeding:

- (i) the legal basis of the current Independent System Operator (ISO) customer contribution policy as it pertains to all transmission facility owners (TFOs) and DFOs;³
- (ii) whether there is a need for a new policy, including consideration of AltaLink Management Ltd.'s contribution proposal; and
- (iii) if approved, set the date on which any new policy would commence.

4. On November 10, 2020, the Commission issued notice commencing this proceeding. All DFOs and TFOs, the AESO and other interested parties were expected to participate in this proceeding. Parties were requested to file statements of intent to participate (SIPs) by November 20, 2020.

5. The Commission received SIPs from:

- AESO (or ISO)
- Alberta Federation of Rural Electrification Associations
- AltaLink Management Ltd.
- ATCO Electric Ltd.
- Consumers' Coalition of Alberta
- ENMAX Power Corporation

³ In Decision 24932-D01-2020, the Commission stated at paragraph 174 that it did not base its decision on any legal argument and did not consider legal arguments in arriving at its review decision.

- EPCOR Distribution & Transmission Inc.
- FortisAlberta Inc.
- Lionstooth Energy
- TransAlta Corporation

6. The Commission established a process schedule that included evidence, information requests and responses on evidence, reply evidence and oral argument and reply. Oral argument and reply argument concluded on January 25, 2021, and the Commission considers this to be the closing date for the record of this proceeding.

7. In reaching the determinations set out within this decision, the Commission has considered all relevant materials comprising the record of this proceeding and those of proceedings 22942 and 24932. Accordingly, references in this decision to specific parts of the records in this or the aforementioned proceedings are intended to assist the reader in understanding the Commission's reasoning relating to a particular matter and should not be taken as an indication that the Commission did not consider all relevant portions of the record with respect to that matter.

3 Discussion of issues and Commission findings

8. The Commission released Decision 22942-D02-2019 approving the AESO's 2018 tariff on September 22, 2019. Included in Section 8 of that decision was a finding approving an alternative AESO customer contribution refund proposal put forward by AltaLink.

9. In Decision 24932-D01-2020, the Commission varied its findings that had approved the alternative AESO customer contribution refund proposal in Decision 22942-D02-2019. It reinstated the AESO customer contribution policy in effect prior to the release of Decision 22942-D02-2019 and directed this further proceeding.

10. In its notice of application, the Commission identified three questions within the scope of this proceeding:⁴

- (i) Is the current treatment of customer contributions supported by the legislative framework?
- (ii) What effect, if any, do the incentives in performance-based regulation (PBR) and cost-of-service rate regulation have on achieving the objectives of the ISO contribution?
- (iii) If a new policy is approved, on what prospective date should it be effective?

3.1 Is the current treatment of customer contributions supported by the legislative framework?

11. The AESO defines a construction contribution as the financial CIAC in excess of any available maximum local investment by the AESO in system costs, that a market participant

⁴ Exhibit 26061-X0004, Appendix – Scope of Issues.

must pay for the construction and associated costs of transmission facilities required to provide system access service (SAS).⁵ Under its current tariff, the AESO requires contributions from (a) DFOs; (b) customers directly connected to the transmission system pursuant to Section 101(2) of the *Electric Utilities Act (EUA)* (Direct Connect customers); (c) a designated industrial system; and (d) the City of Medicine Hat.⁶ The focus of this decision is on the customer contributions paid by DFOs.

12. AltaLink submitted that the current AESO customer contribution policy is contrary to law and is contrary to fundamental commercial principles (that ownership unites the risks and returns associated with the assets).⁷ AltaLink argued that a “transmission facility” and an “electric distribution facility,” as defined in the *EUA*, are mutually exclusive. Specifically, AltaLink argued only a TFO may own and earn a rate of return on transmission facilities.⁸ It submitted that the Commission’s general rate-setting powers under the *EUA* cannot allow a DFO to earn a return on transmission assets⁹ and referenced the tariff setting sections of the *EUA*, which state that the tariff filed by an “owner of an electric distribution facility” is for the purpose of recovering the prudent costs of providing electric distribution service by means of the owner’s “electric distribution system.”¹⁰ Further, AltaLink maintained that allowing a DFO to earn a return on transmission assets offends the requirement in the Utility Asset Disposition (UAD)¹¹ and *Stores Block*¹² decisions that a TFO and its investors, which are subject to the risks intrinsic to property ownership, are entitled to the benefit of earning a return on transmission assets.¹³ EPCOR also took the position that the current policy is contrary to law and supported AltaLink’s position.¹⁴

13. Fortis submitted that the AESO contribution policy is entirely consistent with the governing legislative framework, including the *EUA*. Fortis submitted that the *EUA* and its regulations make clear that DFOs are required to invest in AESO customer contributions as part of arranging for, and financially settling with, the AESO for SAS on behalf of their customers.¹⁵ In addition, Fortis indicated that it is entitled to a return of and on its prudent investments in AESO customer contributions, which are made as part of the distribution service Fortis is required to provide for its customers.¹⁶ It submitted that these investments are made under a policy approved by the Commission, regarding approved transmission connection facilities found to be needed by the Commission, and are recovered from customers in accordance with Fortis’s Commission-approved distribution tariff. Fortis’s position was supported by the CCA,¹⁷

⁵ AESO Consolidated Authoritative Document Glossary.

⁶ AESO Tariff Rate DTS (Demand Transmission Service), AESO Tariff Section 6 (Financial Obligations for Connection Projects) and Section 4 (Classification and Allocation of Connection Project Costs).

⁷ Exhibit 26061-X0026, AltaLink evidence, paragraph 2.

⁸ Exhibit 26061-X0026, AltaLink evidence, paragraph 86.

⁹ Exhibit 26061-X0026, AltaLink evidence, paragraphs 98-109.

¹⁰ Exhibit 26061-X0026, AltaLink evidence, paragraphs 95-97.

¹¹ Decision 2013-417: Utility Asset Disposition, November 26, 2013.

¹² *ATCO Gas & Pipelines Ltd v Alberta (Energy & Utilities Board)*, 2006 SCC 4. [*Stores Block*].

¹³ Exhibit 26061-X0026, AltaLink evidence, paragraphs 115-124.

¹⁴ Exhibit 26061-X0024, paragraph 8.

¹⁵ Sections 101 and 105 of the *EUA*.

¹⁶ Exhibit 26061-X0021, Fortis evidence, paragraph 23-30.

¹⁷ Exhibit 26061-X0019, CCA evidence, paragraph 28.

ENMAX,¹⁸ and the AESO.¹⁹ ATCO argued that the Commission has the authority to authorize the current customer contribution policy.²⁰

14. To answer this first question, the Commission has examined:

- (a) the general legislative framework that sets out the duties and obligations of the AESO, TFOs and DFOs;
- (b) the AESO tariff and the history of AESO customer contributions; and
- (c) the recovery of AESO customer contributions through DFO tariffs approved by the Commission.

3.1.1 Legislative framework

15. As has been stated many times by the Commission, the starting point for interpreting statutory provisions is Driedger's modern principle of statutory interpretation. The Supreme Court of Canada explained Driedger's principle and its application to the statutory scheme administered by the Commission in *Stores Block*.²¹ The court stated that the principle requires that "the words of an act are to be read in their entire context, in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act and the intention of Parliament."²² The court clarified that it looks first at the grammatical and ordinary meaning of a provision and then examines the entire statutory context and legislative intent. The court concluded: "the ultimate goal is to discover the clear intent of the legislature and the true purpose of the statute while preserving the harmony, coherence and consistency of the legislative scheme."²³

16. The legislative framework that governs the provision of electricity service in Alberta is principally established through the provisions of the *EUA* and of the *Hydro and Electric Energy Act*, and the respective regulations made pursuant to these acts. These two statutes work as companion legislation, with the former establishing the duties and obligations of utilities and the AESO to provide service to customers in the electricity market, and the recovery of expenditures through a tariff, while the latter focuses on the construction and operation of the physical assets used to deliver electricity. The *Transmission Regulation* further supplements the legislative framework as it pertains to the provision and costing of transmission services in Alberta.

17. The two principal enactments relevant to the issues in this proceeding are the *EUA* and the *Transmission Regulation*. Each of these have undergone revisions since they were first enacted; however, the specific provisions under review and the legislative framework established by the *EUA* have remained consistent.

18. Section 5 of the *EUA* sets out the purposes of the act. Included within that list is the following:

¹⁸ Exhibit 26061-X0023, EPC evidence, paragraph 6.

¹⁹ Exhibit 26061-X0099, AESO argument, PDF page 1.

²⁰ Transcript, Volume 1, page 48, lines 6-10.

²¹ *ATCO Gas & Pipelines Ltd. v Alberta (Energy & Utilities Board)*, 2006 SCC 4, paragraph 37.

²² *ATCO Gas & Pipelines Ltd. v Alberta (Energy & Utilities Board)*, 2006 SCC 4, paragraph 37.

²³ *ATCO Gas & Pipelines Ltd. v Alberta (Energy & Utilities Board)*, 2006 SCC 4, paragraph 37.

5 The purposes of this Act are:

(b) to provide for a competitive power pool so that an efficient electricity market based on fair and open competition can develop, where all persons wishing to exchange electric energy through the power pool may do so on non-discriminatory terms and may make financial arrangements to manage financial risk associated with the pool price;

...

(h) to provide for a framework so that the Alberta electric industry can, where necessary, be effectively regulated in a manner that minimizes the cost of regulation and provides incentives for efficiency.

19. In *ATCO Electric Limited v Alberta (Energy and Utilities Board)*,²⁴ Chief Justice Catherine Fraser, writing for the majority, provided the following guidance concerning the scheme, purpose and legislative intent of the *EUA*:

[13] For this reason, one of the key purposes of the *1995 Act* was to provide a framework for a competitive power pool so that an efficient market for electricity based on fair and open competition could develop in Alberta: s.6(b). To enhance the likelihood of increased competition, the goal was to separate, that is unbundle, electricity services along functional lines – generation, transmission and distribution – and to treat each separately for accounting, regulatory and operational purposes. Hence the Legislature’s adoption of a new industry model designed to eliminate monopolistic power, promote market entry, and foster and strengthen competition.

20. The Commission, and its predecessor, the Alberta Energy and Utilities Board (board), have been working with this legislative framework for many years, a fact that has been recently commented on by Justice O’Ferrall of the Alberta Court of Appeal:

[24] Therefore, in accordance with the Supreme Court's decision in *Vavilov*, I find that I am required to apply a correctness standard; but in applying that correctness standard, it is my view that regard must be had to the Commission's interpretation of the scope of its authority under the *Electric Utilities Act*, the *Hydro and Electric Energy Act* and the *Alberta Utilities Commission Act*.... As a general proposition, the reason this Court ordinarily accords the Commission a degree of deference is that the Commission's experience and familiarity with not only interpreting its home statute, but also with interpreting statutes which regularly impact its functioning, makes it quite able to decide certain questions of law...²⁵

Definitions, duties and obligations

21. The provisions of the *EUA* are prescriptive and define each of the entities who provide electricity services and their respective duties and responsibilities. As noted by Chief Justice Fraser, the *EUA* was, and continues to be, structured along functional lines of generation, transmission and distribution.²⁶

²⁴ *ATCO Electric Limited v Alberta (Energy and Utilities Board)*, 2004 ABCA 215 (CanLII), paragraph 13.

²⁵ *Dorin v EPCOR Distribution and Transmission Inc*, 2020 ABCA 391, paragraph 24.

²⁶ For the purposes of this analysis, the Commission has focused on the transmission and distribution functions. There are also retail billing functions that are required to be fulfilled under the *EUA*.

22. The owner of each function is defined by describing the assets required to provide that particular function, to the exclusion of the other two. The distribution function, for example, is defined as follows:

1 (m) “electric distribution system” means the plant, works, equipment, systems and services necessary to distribute electricity in a service area, but does not include a generating unit or a transmission facility

(1.1) “electric distribution service” means the service required to transport electricity by means of an electric distribution system

(i) to customers, or

(ii) from distributed generation to the interconnected electric system, and includes any services the owner of the electric distribution system is required to provide by the Commission or is required to provide under this Act or the regulations, but does not include the provision of electricity services to eligible customers under a regulated rate tariff; [emphasis added]

23. Similarly, the transmission function is defined as:

(bbb) “transmission facility” means an arrangement of conductors and transformation equipment that transmits electricity from the high voltage terminal of the generation transformer to the low voltage terminal of the step down transformer operating phase to phase at a nominal high voltage level of more than 25 000 volts to a nominal low voltage level of 25 000 volts or less, and includes

(i) transmission lines energized in excess of 25 000 volts,

(ii) insulating and supporting structures,

(iii) substations, transformers and switchgear,

(iv) operational, telecommunication and control devices,

(v) all property of any kind used for the purpose of, or in connection with, the operation of the transmission facility, including all equipment in a substation used to transmit electric energy from

(A) the low voltage terminal, to

(B) electric distribution system lines that exit the substation and are energized at 25 000 volts or less, and

(vi) connections with electric systems in jurisdictions bordering Alberta, but does not include a generating unit or an electric distribution system; [emphasis added]

24. These definitions, viewed in isolation, do not resolve the issue of whether the AESO’s customer contribution policy is supported by the legislative framework.²⁷ However, having established the functions of generation, transmission and distribution and defined them, the *EUA* then sets out the responsibilities of each of the owners of these functions, along with the AESO.

25. The *EUA* sets out transmission responsibilities of both the TFOs and the AESO in Part 2, and more specifically, for TFOs, in Division 4. The responsibilities of TFOs are generally to

²⁷ Under the *Hydro and Electric Energy Act*, sections 1(1)(b) and 1(1)(o) similarly define “electric distribution system” and “transmission line” as assets that do not include either of the other two functions.

work with and assist the AESO and to safely operate and maintain their transmission facilities.²⁸ Additionally, each TFO is required to submit a tariff to recover from the AESO its costs for the use of its respective transmission facilities.²⁹

26. The *EUA* clearly states that the AESO is the sole provider of SAS³⁰ and, in addition to other duties, is required to file a tariff to recover the approved tariffs of the TFOs, any other prudent costs and expenses the Commission considers appropriate, and to establish the rates to be charged to each class of customers for SAS.³¹

27. SAS for load customers is provided by the AESO under Rate DTS (Demand Transmission Service) and is charged to the AESO's load customers. Consistent with the provisions set out in the *EUA*, load customers receiving SAS under Rate DTS are DFOs, persons who have made an arrangement under Section 101(2) of the *EUA* to connect directly to the transmission system (Direct Connect customers), owners of industrial systems that have been designated by the AUC,³² or the City of Medicine Hat. The rates set out in the AESO tariff must not be different for DFOs, or Direct Connect customers or owners of industrial systems who have been designated by the AUC.³³ This is commonly referred to as the postage stamp rate principle.

28. The responsibilities imposed on DFOs are primarily set out in Part 7 of the *EUA*. Specifically, Section 101 of the *EUA* confers on the DFO the right to provide electricity service to customers within its service area unless it agrees that a customer may make arrangements to connect directly to the transmission system. Section 102 requires the DFO to prepare a tariff, and Section 105 establishes the duties of the DFO, including, in subsection (d), “if a transmission facility serves only one service area, to arrange for the provision of system access service to customers in that service area, other than customers referred to in section 101(2)” and in subsection (h), “to undertake financial settlement with the Independent System Operator for system access service.”

29. This legislative scheme clearly establishes separate roles and functions to be performed by each of the TFOs, DFOs and the AESO. What is also clear from the legislative framework is that in exchange for the monopoly status granted to the TFOs and DFOs within their service territories,³⁴ each owner has its own prescribed duties to provide service.³⁵ The presumptive arrangement for load customers who wish to receive electricity service in Alberta is for those customers to obtain that service from the DFO. The DFO, in turn, must make arrangements directly with the AESO for access to the transmission system. There are some exceptions as

²⁸ Section 39 of the *EUA*.

²⁹ Section 37 of the *EUA*.

³⁰ Section 28 of the *EUA*.

³¹ Section 30 of the *EUA*.

³² Section 4 of the *Hydro and Electric Energy Act* permits the Commission to approve an industrial system designation. If a designation is approved, the generation on the industrial site is primarily used for the industrial operation; however, excess energy is permitted to be exported requiring a connection to the transmission grid. A more detailed description can be found in Decision 26117-D01-2021: Pembina Gas Services Ltd., Kakwa River Gas Plant Industrial System Designation, Proceeding 26117, Application 26117-A001, February 26, 2021.

³³ Section 30(3) of the *EUA*.

³⁴ For simplicity, the operations of rural electrification associations (REAs) that overlap within DFO service areas are not included in this analysis.

³⁵ See Section 105 for DFOs and Section 39 for TFOs.

noted above; however, even for Direct Connect customers, the DFO must agree to this arrangement.³⁶ By comparison, the TFO's role is to operate its transmission system and to assist the AESO in providing the transmission facilities necessary for the AESO to fulfill its obligation to provide SAS to load customers. Both TFOs and DFOs are required to assist the AESO in fulfilling its duties.

30. The provisions set out in the *Transmission Regulation* provide further detail pertaining to how the TFOs and the AESO are to fulfill the duties and obligations imposed on them under the *EUA*. There are also provisions that impose obligations on the AUC in determining the recovery of AESO and TFO tariff costs and approving transmission projects.

3.1.2 AESO tariff and history of customer contribution policy

31. Unlike Section 29 of the *Transmission Regulation*, which specifically directs the AESO to include in its tariff a contribution amount to be paid by owners of generation for either upgrades to existing transmission facilities or for locating in areas where generation exceeds load, there is no legislative provision in either the *EUA* or in the *Transmission Regulation* that specifically provides for the establishment of a customer contribution to be paid by load connecting customers who are receiving SAS from the AESO under the AESO tariff.

32. Rather, the requirement for a customer contribution to be paid by a load connecting customer seeking SAS from the AESO arises from the AESO's tariff. As noted above, Section 30 of the *EUA* prescribes what must be included in an AESO tariff:

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

(a) the rates to be charged by the Independent System Operator for each class of system access service, and

(b) the terms and conditions that apply to each class of system access service provided by the Independent System Operator to persons connected to the transmission system.

(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

(i) the amounts to be paid under the approved tariff of the owner of each transmission facility,

...

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

...

(c) include any other costs, expenses and revenue determined in accordance with the regulations made by the Minister under section 99.

³⁶ Section 24.4 of the *Transmission Regulation* sets out the criteria that must be met to obtain this approval. Further, the DFO may submit the SAS request on behalf of the Direct Connect customer.

(3) The rates set out in the tariff

(a) shall not be different for owners of electric distribution systems, customers who are industrial systems or a person who has made an arrangement under section 101(2) as a result of the location of those systems or persons on the transmission system, and

(b) are not unjust or unreasonable simply because they comply with clause (a).

...

33. This provision indicates that the AESO must establish rates in its tariff that reflect prudent costs attributable to each class of its customers. Further, the costs recovered under the AESO tariff must be sufficient to pay the TFOs for the use of their transmission facilities. The TFO costs are, in turn, determined by the Commission when it approves the TFO's tariff. Although the TFO is responsible for building and operating the physical transmission assets that are used to provide transmission service, the value of the transmission assets that are approved for capitalization in the TFO's rate base and on which it earns a return may not equal the TFO's actual cost to build the transmission asset. The Commission assesses the prudence of the TFO's actual costs incurred to construct the transmission asset. Only the prudent costs are allowed to be included in the TFO rate base and a return is permitted to be earned only on those assets. Further, if a customer contribution has been made for the construction of a particular transmission asset, the customer contribution amount is not included in the costs of the transmission asset that is included in the TFO's rate base.

34. Customer contributions fall within the AESO's requirement to establish prudent costs within its tariff. Customer contributions have been required by sound regulatory principles for many years in order to avoid socializing too many costs onto ratepayers, where there are costs of connecting facilities that should be paid by specific customers.³⁷

35. Following the unbundling of the various electricity functions in Alberta, CIAC continued to be paid. Under this new structure, the payments were made by connecting load customers to the transmission system planner, who would later become the AESO. When the load customer was the DFO, the DFO recovered its contribution costs through its tariff and earned a return. The AESO contribution policy is examined by the Commission in the AESO tariff applications. The recovery of the AESO customer contributions that are paid for by DFOs to the AESO is examined by the Commission in the DFO tariff applications. This practice has been in place for more than 20 years. With the exception of Decision 22942-D02-2019, which gave rise to this proceeding, no other decisions approving the customer contribution policy in the AESO's tariff have been challenged by review or appeal. As stated previously, although there have been

³⁷ Historically, customer contributions have been paid both by load customers of the AESO (DFOs and Direct Connect customers) and by customers of DFOs pertaining to upgrades made to distribution assets. See for example, Public Utilities Board (predecessor to the Commission) Decision 30087: The City of Camrose and Calgary Power Ltd., December 11, 1970, pages 31-32: " 'Customer contributions' is a term common to public utility parlance and has reference to the amounts required to be paid to the utility by a customer in situations where the investment in capital facilities to provide utility service to such customer is greater than the economic feasibility of providing such service warrants.... Were it not for the contributions made by customers the utility would not be prepared to instal [*sic*] the facilities to provide service. In essence, what the customer is doing is making a lump sum payment at the time the service is first provided to him to meet the yearly deficiencies in the level of earnings which the utility is entitled to under its rate structure which would result if a utility was required to make the extension regardless of the capital cost involved."

amendments to the *EUA* and the *Transmission Regulation* over the years, the underlying legislative scheme described above in Section 3.1.1 is unchanged.

Rationale for customer contributions in the AESO tariff

36. When considering whether the current treatment of customer contributions is supported by the legislative framework, it is instructive to understand why the board and the Commission have examined and approved as prudent, the inclusion of a customer contribution policy as part of the terms and conditions included in the AESO tariff.

37. In Decision 2000-01, the board stated:

The Board considers that customer contributions are suitable in circumstances where service to a customer may impose costs on other customers for which they should not be responsible. An appropriate contribution policy therefore provides a suitable balance to an unlimited obligation to serve by imposing economic discipline on siting decisions. It transfers the economic burden of connection of new customers from the utility and its existing customers to the new customer. In other words, it exerts some of the discipline of the utility's economics on the economic decision-making of the customer. The Board considers that customer contributions should relate only to the local connection costs of the system expansion. The deep system costs of expansion are properly the responsibility of all customers, form part of the utility's revenue requirement and should be recovered from all customers through rates.³⁸

38. The board further directed ESBI Alberta Ltd. (EAL) to make its investment policies consistent with those of the DFOs so that EAL's costs flowed through efficiently to end-use users.³⁹ The board subsequently considered EAL's response to its direction in Decision 2001-06.⁴⁰ In this decision, the board considered whether EAL's contribution policy complied with the provisions of the *EUA* and, in particular, with the postage stamp principle. The board concluded that the policy did not offend the act.⁴¹ The board also considered whether the contribution policy resulted in a just and reasonable tariff and stated:

In determining whether or not the contribution policy is just and reasonable, the Board has applied a test that would see all demand customers, including DISCOs [distribution companies], in the same light. That would mean any customer should be able to approach the TA with their load information and their location and be given the same answer as to the cost to connect. If the load and distance to connect were identical then one would expect the cost to be identical.⁴²

39. Again, the board emphasized that contribution policies of EAL be harmonized with those of the DFOs, explaining:

The amount of the customer contribution required for connection to the transmission system rests with the TA as discussed earlier.

³⁸ Decision 2000-01: ESBI Alberta Ltd., 1999/2000 General Rate Application, Phase 1 and Phase 2, page 270. EAL was the Transmission Administrator (TA) and the predecessor to the AESO, page 270.

³⁹ Decision 2000-01, page 271.

⁴⁰ Decision 2001-06: ESBI Alberta Ltd., 2001 General Rate Application, Part D: Customer Contribution Policy, February 2, 2001.

⁴¹ Decision 2001-06, page 58.

⁴² Decision 2001-06, page 59.

...

Ensuring equitable treatment of customers is important to the Board. The Board considers that it is important that a new customer has clear choices as to the options available and the costs associated with the options.

If there are substantive differences between contribution policies of the TA and DISCOs, it may be the cause of inequitable treatment such as differences in the terms and level of contribution. The Board considers that when the DISCO and TA policies are properly harmonized, then the inequities are minimized and the customer will choose direct versus distribution connection based on appropriate technical and financial considerations.⁴³

40. At no time was it suggested that the establishment of a customer contribution policy was contrary to the legislative framework, nor was there a question concerning the fact that a DFO was required to pay this contribution to the AESO, or that the DFO was permitted to earn a return on the contributions it is required to make.

41. In Decision 2005-096, the AESO brought forward refinements to the contribution policy that had been established in Decision 2001-06. An analysis of the legislative scheme and how it aligned with these policy principles was also set out in that decision.⁴⁴ Because customer contributions are intended to send a price signal to customers that require system investments beyond the AESO's maximum investment level, the board in Decision 2005-096 was concerned that an excessive investment allowance could provide incentives for customers to pursue higher standards of connection facilities than required. Consequently, the board directed the AESO to develop a contribution policy that aligned the standard facilities definition to that of a distribution utility to avoid incenting a customer to seek an economically inefficient and undesirable result driven more by a distribution utility's more attractive contribution policy than by what type of interconnection was the most technically sound and cost-efficient.

42. The following principles were set out by the board to guide the development of the AESO's customer contribution policy:

- The underlying purpose of the contribution policy is to send economic signals to AESO customers when considering alternatives for siting their interconnecting loads.⁴⁵
- An excessive investment allowance could provide incentives for customers to pursue higher standards of interconnection facilities than required and justify doing so on the basis that the cost of the higher standard facilities would not exceed the permitted investment allowance.⁴⁶
- Because the incremental revenue approach may place undue upward pressure on rates, maximum investment allowances should be at a level below a level representing the incremental revenues expected to arise from the interconnection of a new customer.⁴⁷

⁴³ Decision 2001-06, page 61.

⁴⁴ The 1995 *EUA* that had been in place was replaced with the enactment of the 2003 *EUA*. The 2003 *EUA* created the AESO and made it the sole provider of system access service.

⁴⁵ Decision 2005-096: Alberta Electric System Operator (AESO), 2005/2006 General Tariff Application, August 28, 2005, page 43.

⁴⁶ Decision 2005-096, page 44.

⁴⁷ Decision 2005-096, page 44.

- Investment allowances should be set with regard to the anticipated costs of establishing an interconnection reflecting acceptable standards of functionality and service established by the AESO.⁴⁸
- Interconnection facility service characteristics and standards of functionality may change over time.⁴⁹

43. The board also rejected an AESO proposal to waive customer contributions in respect of AESO points of delivery when multiple users were served by a distribution utility, stating:

The Board considers that it is both consistent with past practice and consistent with the desire to send efficient pricing signals through the contribution policy that customer contribution costs incurred by a distribution utility should be recovered through the distribution utility's own tariff.⁵⁰

44. This finding represented the first time that the issue of whether DFOs should pay customer contributions under the AESO tariff was considered. It would not be the last.

45. The board next reviewed the AESO's customer contribution policy in Decision 2007-106. In that decision, the board was focused on determining the customer contribution investment allowance, and, in particular, the maximum investment allowance that the AESO would make on a load interconnection project. The board's focus was on ensuring that DFOs and Direct Connect customers received comparable treatment under the AESO's customer contribution policy and the board commented on the DFO's recovery of these contribution payments as follows:

... The extent of the Disco's ability to pass through optional facility costs (as determined by the AESO applying its tariff) depends on the Disco's tariff and the contribution policy contained in that tariff. Thus, the Disco remains responsible for ensuring the reasonableness of all of its revenue requirement components. As such, the Disco may bear some risk that the full amount of a customer contribution assessed by the AESO may not be fully recoverable through the Disco's tariff. This may for example arise if the Disco for some reason has not acted reasonably, such as by having requested AESO optional facilities on behalf of its end-use customer in the context of the section 34 application process, but then is subsequently unable to pass on to its customer the full amount of the costs of the facilities that exceed AESO standard facilities, for example if its own contribution and investment policies do not permit such costs to be passed on to its customer and the Board denies any proposed inclusion in the Disco's revenue requirement.

For the purpose of this Decision, as long as a Disco has complied with the AESO's interconnection guidelines, its own tariff, and has acted reasonably and prudently incurred the costs, the Board considers that there would be only minimal risk to the Disco of disallowance of contributions paid to the AESO. However, such risk on the Disco may arise if the Disco pursues transmission facilities inconsistent with the interconnection process guidelines either on its own initiative or at the request of its end-use customer.

⁴⁸ Decision 2005-096, page 44.

⁴⁹ Decision 2005-096, page 44.

⁵⁰ Decision 2005-096, page 60.

The reasonableness of Disco expenses is, of course, assessed in Disco tariff proceedings.⁵¹ [emphasis added]

46. As noted from the above passages, it was clearly understood that DFOs were responsible for the payment of the customer contributions and that the recovery of these costs was, and continues to be, a matter to be assessed in the DFO's tariff. No party challenged either the requirement for the DFO to pay a customer contribution or the recovery of this contribution by the DFO through its tariff, including the fact that the DFO earned a return on the contributions paid.

47. Decision 2010-606 followed. In this proceeding, the Commission examined a rate rider proposal brought forward by the AESO, Rider I, that would allow customer contributions to be amortized over a 20-year period rather than paid for upfront as required by the AESO tariff. The proposal arose due to a perception of increasing levels of contributions relative to historic levels. Coinciding with this issue, TFOs had also proposed in their tariff applications that they earn a return on the value of the contributions to the transmission assets through a management fee. As stated above in paragraph 33, the value of the transmission asset that is approved for recovery in a TFO tariff and on which it earns a return does not include the CIAC costs. The Commission declined to approve Rider I and directed the matter to be heard in a 2011 generic cost of capital (GCOC) proceeding along with the management fee issue raised by the TFOs.⁵² However, the Commission signalled an openness to revisit its prior requirement that the AESO establish parity between DFOs and Direct Connect customers under the AESO's contribution policy.⁵³

48. The ongoing evolution of the AESO's contribution policy for transmission connection projects examined in the 2005, 2007 and 2010 AESO tariff decisions led the Commission to establish a separate proceeding to specifically examine the AESO's customer contribution policy. In Decision 2012-362, the Commission examined the underlying principles that had been established over time to support the requirement for connecting customers to provide a contribution in the AESO's tariff. The Commission concluded that:

40. ... by increasing levels of investment allowance, the price signal provided by the construction contribution policy is weakened, because it diminishes the incentive for connecting customers to request the most economical connection facilities consistent with GEIP [good electric industry practice] and/or to take into account proximity to the existing or planned transmission system when considering alternative locations for the load to be served. In summary, and as discussed later in this decision, the Commission remains of the view that, at the end of the day, providing an efficient price signal is considered a more important policy objective than intergenerational equity.⁵⁴

49. The Commission also revisited whether (i) the need for parity under the AESO's customer contribution policy between DFOs and Direct Connect customers should be continued, including whether a DFO should pay a contribution at all; (ii) the impact that requiring DFOs to

⁵¹ Decision 2007-106: Alberta Electric System Operator, 2007 General Tariff Application, December 21, 2007, PDF page 109.

⁵² The 2011 GCOC was decided in Decision 2011-474: 2011 Generic Cost of Capital, December 8, 2011.

⁵³ Decision 2010-606: Alberta Electric System Operator, 2010 ISO Tariff, Proceeding 530, Application 1605961-1, December 22, 2010, paragraphs 298-302.

⁵⁴ Decision 2012-362: Alberta Electric System Operator, 2012 Construction Contribution Policy, Proceeding 1162, Application 1067193-1, December 28, 2012.

pay contributions has on the financial statements of TFOs; and (iii) the contribution policy issues that arose in GCOC decisions.

50. Regarding whether DFOs should pay AESO customer contributions, the Commission stated:

72. ... if distribution system owners did not pay a contribution, it would be difficult to provide an appropriate price signal to industrial customers to choose between a transmission or distribution connection. The Commission also accepts that, if differential treatment of distribution system owners and industrial customers under the AESO's contribution policy were to be endorsed, a number of other significant and potentially complicated changes would have to be made to other aspects of the AESO's tariff, including the potential need to create a new rate class applicable to distribution system owners to maintain cost causation within the point of delivery (POD) charge component of Rate DTS.

73. However, the Commission considers that the most fundamental reason for which the concept of providing a distribution system owner waiver must be rejected is that providing a waiver would effectively nullify the option set out in Section 101(2) of the *Electric Utilities Act* of entering into an arrangement with the AESO for the provision of system access service.⁵⁵

51. Regarding the latter two matters, the Commission noted that Decision 2011-474, the 2011 GCOC decision, awarded a moderate increase in the equity ratio to TFOs and that any concerns related to the level of CIAC funded assets would be addressed through possible equity thickness adjustments and applied on a utility-specific basis, stating that:

78. The majority of the increase in transmission facility owner CIAC balances has arisen as a direct outcome of the Alberta government policy to unbundle regulated Alberta electric utilities between transmission and distribution service providers, and the policy decisions made by the board to provide equivalent treatment of direct-connect market participants and distribution system owners under past contribution policies.⁵⁶

52. It concluded that:

83. Having regard to the differences between the equity thickness granted to a TFO compared to a distribution system owner (DISCO) in Decision 2011-474, the Commission remains interested in measures that would have the effect of facilitating a transfer of contributions from distribution system owners to transmission facility owners to enable the possibility that end-use customers could obtain the benefit of the lower return on equity allowed for transmission facility owners.

53. The Commission next reviewed the AESO's tariff in Decision 2014-242.⁵⁷ This was the last AESO tariff decision issued prior to Decision 22942-D02-2019. Again, the AESO's customer contribution policy was examined. Issues included contribution policy principles, and the level of investment coverage to be targeted under the policy. In its findings, the Commission

⁵⁵ Decision 2012-362.

⁵⁶ Decision 2012-362.

⁵⁷ Decision 2014-242: Alberta Electric System Operator, 2014 ISO Tariff Application and 2013 ISO Tariff Update, Proceeding 2718, Application 1609765-1, August 21, 2014.

again confirmed its prior findings from Decision 2005-96 that the AESO's customer contribution policy does not violate the postage stamp requirements in Section 30(3) of the *EUA*, and that ensuring an efficient price signal is the priority principle to be met.

54. Each of the seven decisions that examined and approved the AESO's (and its predecessor's) tariff, confirmed the following:

- No legislative provisions were identified that prevented the AESO from including a customer contribution policy in its tariff.
- It is desirable to include a customer contribution policy within an AESO tariff in order to provide a suitable balance to an unlimited obligation to serve by imposing economic discipline on siting decisions.
- DFOs have the responsibility to obtain SAS from the AESO and to pay the rates established in the AESO tariff and its terms and conditions of service.
- An effective price signal is the primary principle to be achieved when establishing the customer contribution amounts.
- If a customer contribution policy is included within the AESO tariff, both DFOs and Direct Customers must pay a contribution (rejected a DFO waiver proposal).
- DFOs recover the customer contributions through their tariffs and earn a return on these payments.
- TFOs can address their concerns about CIAC balances through their equity permitted under GCOC proceedings.

55. In *FortisAlberta Inc v Alberta (Utilities Commission)*, the Alberta Court of Appeal reaffirmed that *stare decisis* does not, in its strictest sense, apply directly to tribunals. However, the court further stated that following the *Vavilov* decision, a decision of a tribunal could be subject to judicial review on the basis of it "being unjustifiable or incoherent when reviewed in light of an established prior record of interpretations of the same legal question by the same or similar tribunals."⁵⁸

56. The legislative framework examined by the Commission and the board concerning the obligations of the AESO, TFOs and DFOs is aligned with and supports the inclusion and operation of a customer contribution policy within the AESO tariff. This framework has not changed over the course of the past 20 years and has not been challenged through the courts. Although there have been changes over the years concerning the AESO's methodology for determining the maximum investment allowance and the actual dollars that have been paid by DFOs and Direct Connect customers, the Commission and the board, in the AESO tariff applications, have consistently approved the inclusion of a customer contribution policy, finding that such a policy is necessary to achieve a suitable balance to an unlimited obligation to serve, imposed on DFOs under the legislative framework by imposing economic discipline on siting decisions. The Commission in this proceeding continues to hold this view.

⁵⁸ *FortisAlberta Inc v Alberta (Utilities Commission)* 2020 ABCA 271, paragraphs 24-25.

3.1.3 Recovery of customer contribution costs within the DFO tariff

57. The previous section established that there is nothing legislatively that prevents the AESO from including a customer contribution policy (which encompasses contributions by DFOs and Direct Connect customers) within its tariff, and in fact, that its inclusion is supported by the overall policy objectives of the act to incent optimal behaviour. The Commission now considers whether the legislative framework supports the recovery of customer contributions required to be paid by DFOs through their own tariffs and specifically, whether the legislative framework permits the Commission to exercise its ratemaking authority under the *EUA* to allow a DFO to earn a return on the AESO customer contributions it must pay. This latter issue is the primary objection advanced by AltaLink and EPCOR, although it is also suggested in AltaLink's submission that it considers any customer contribution paid, including those paid by Direct Connect customers, to be impermissible.⁵⁹

3.1.3.1 Payment does not equate to ownership

58. AltaLink and EPCOR argue that allowing a DFO to make a customer contribution, include these contribution amounts in rate base, and earn a return on the contributions, gives rise to a fictional distinction between the customer contribution as “property” for rate base purposes, but not in the sense of legal ownership. They say that this is akin to the DFO acquiring an ownership interest in transmission assets, by virtue of the fact that the DFO earns a return on its investment, which they say offends the *Stores Block* and *UAD* decisions.

59. AltaLink cited Principles of Property Law, by Bruce Ziff, in support of its position that the owner of an asset is entitled to the benefits, and subject to the risks intrinsic to property ownership.

Ownership comprises the right to possess, the right to use, the right to manage, the right to the income of the thing, the right to the capital, the right to security, the rights or incidents of transmissibility and absence of term, the duty to prevent harm, liability to execution, and the incident of residuary.⁶⁰

60. Of this list, which contains several indicia of ownership, it is the ability of the DFO “to earn income” through its tariff that AltaLink cites as a derogation to its rights as an owner of transmission facilities. AltaLink stated that the TFO is saddled with the obligations, while the DFO enjoys the benefits of ownership when in fact it does not own, operate or maintain any transmission assets.⁶¹

61. In its consideration of these indicia, the Commission notes that DFOs do not have any rights to use the transmission assets or do anything with those assets. Moreover, the DFOs have never asserted that they gain any property rights in transmission assets by paying a contribution above the maximum investment level to the AESO as part of their legislated obligation to obtain SAS. The payment of a customer contribution by a load customer does not endow that customer with an ownership in that asset.

⁵⁹ Exhibit 26061-X0026, AltaLink evidence, paragraph 129.

⁶⁰ Exhibit 26061-X0026, AltaLink evidence, paragraph 121.

⁶¹ Exhibit 26061-X0026, AltaLink evidence, paragraph 134.

62. AltaLink argued that the current policy violates basic commercial and foundational ownership principles, and that to suggest that the objective intent of the legislature was to devise a scheme where foundational ownership principles would be turned on their head is meritless.⁶²

63. The Commission set out the purposes of the *EUA* in Section 3.1.1 above. While the general principles of private property law can be applied to public law, the *EUA* explicitly creates fractures in the bundle of traditional property law entitlements, through the establishment of the regulatory compact by which the owners of the assets, in exchange for their service area monopoly, have a duty to use their assets to provide service to customers.

64. AltaLink has objected to the payment of a customer contribution made by a Direct Connect customer on the basis that the book value of the transmission assets included in its rate base on which it earns a return is diminished, but it has not suggested that an ownership interest is created when a Direct Connect customer makes a contribution since transmission-connected end-use customers do not earn a return on transmission assets under the current policy.⁶³

65. Similarly, AltaLink's objection to a DFO earning a return on the customer contribution payments it makes also arises from AltaLink's desire to earn a return on the full value of the transmission asset rather than on the value net of contributions. As noted in paragraph 51, the Commission responded to AltaLink's return issue in Decision 2011-474 and determined in Decision 2012-362 that customer contributions should be paid by DFOs. The Commission has indicated in this decision that it agrees with these findings. Regardless, considering the size of the return earned by a TFO on the value of the transmission assets approved by the Commission for inclusion in its rate base does not assist in the Commission's examination of whether the legislative scheme permits a DFO to recover its customer contribution payments in its tariff or whether it can earn a return on those costs.

66. In *Stores Block*, Justice Bastarache, writing for the majority, noted that customers do not obtain an ownership interest in utility assets by paying for the provision of utility service:

Through the rates, the customers pay an amount for the regulated service that equals the cost of the service and the necessary resources. They do not by their payment implicitly purchase the asset from the utility's investors. The payment does not incorporate acquiring ownership or control of the utility's assets.⁶⁴

67. When a customer approaches the DFO for electricity service, or the DFO, on behalf of its customers, identifies a need for electricity service, the DFO makes an arrangement for SAS with the AESO. If the cost of the transmission facilities required to provide that service is beyond the AESO's maximum investment level, then that cost is paid by the customer either as a Direct Connect customer or by the DFO on behalf of the customer. Consistent with the finding of the Supreme Court of Canada in *Stores Block*, the payment of this contribution to the AESO does not result in the customer acquiring any ownership interest or control of the assets. Ownership of the asset continues to reside with the TFO. No party has suggested that the DFO obtains a

⁶² Exhibit 26061-X0026, AltaLink evidence, paragraph 130.

⁶³ Exhibit 26061-X0064, AML-EPC-2020DEC18-001, PDF page 2.

⁶⁴ *Stores Block*, paragraph 68.

proprietary interest in a transmission facility by making a customer contribution, and AltaLink has stated that it is indisputably the sole legal owner of its transmission assets.⁶⁵

68. There are other instances in which contributions are paid by customers under the legislative framework. For example, Section 29 of the *Transmission Regulation* requires a contribution to the costs of a connection facility made by a generator.⁶⁶ It has never been suggested that the generator acquires a property interest in the connection facility solely because a payment towards the cost of that facility is required to be made.

69. Risk of ownership as set out in the UAD decision likewise provides little guidance on the issue of whether a DFO should be permitted to earn a return on the customer contributions it is required to pay the AESO. AltaLink has argued that because it bears the risk of ownership of the assets, that the DFO cannot earn a return on the customer contribution portion because, unlike a TFO, it does not own the asset, nor is it exposed to the risk associated with that ownership.

70. In the UAD decision, as summarized by Justice Paperny writing for the court in *FortisAlberta Inc v Alberta (Utilities Commission)*, the Commission determined that:

... the risk of stranded assets should be borne by utility shareholders rather than be retained in rate base and paid for by ratepayers (sometimes referred to in the case law as customers). Consequently, assets that are no longer used to provide utility service as a result of extraordinary circumstances - for example, flood, fire or early obsolescence - must be removed from rate base when they cease to provide service, regardless of whether they have been fully depreciated. The risk that they may not be fully depreciated is to be borne by the utility and its shareholders, not ratepayers.⁶⁷

71. The Alberta Court of Appeal upheld the UAD decision, including the application of the decision to TFOs. Although the TFO is responsible for the risk of a transmission asset being stranded, the financial risk to the TFO is limited to the value of the transmission asset that has been approved for capitalization in its rate base. This amount does not include the customer contribution portion of the transmission asset paid by either the Direct Connect customer or a DFO. The CIAC construct does not attract any of the incidents of ownership and does not alter the TFO's ownership of the transmission assets, as defined under the *EUA*.

3.1.3.2 Legislative provisions establishing the recovery of costs through a DFO tariff

72. The recovery of costs through a DFO tariff is prescribed in the *EUA* under sections 102, 119, 121 and 122. The latter provisions address the Commission's authority and responsibility to approve the DFOs' tariffs. As with the establishment of the functions and roles for each of these parties, the *EUA* and *Transmission Regulation* also prescribe requirements on the Commission when determining whether to approve a tariff.

⁶⁵ Exhibit 26061-X0066, AML-AESO-2020DEC18-002, PDF page 5.

⁶⁶ The Commission is aware that a payment under this provision may be subject to a full refund if certain conditions are met.

⁶⁷ *FortisAlberta Inc v Alberta (Utilities Commission)*, 2015 ABCA 295, paragraph 2.

73. Section 102(1) of the *EUA* states:

102(1) Each owner of an electric distribution system must prepare a distribution tariff for the purpose of recovering the prudent costs of providing electric distribution service by means of the owner's electric distribution system.

(4) A distribution tariff must be prepared in accordance with the regulations made by the Minister under section 108.

74. There are a number of regulatory provisions that have been enacted to further address the costs to be included for recovery in a DFO tariff, including matters that touch on the transmission system.

75. Under Section 47(a) of the *Transmission Regulation*, the Commission must ensure that when approving an ISO tariff under sections 121 and 122 of the *EUA*:

- (i) the just and reasonable costs of the transmission system are wholly charged to DFOs, customers who are industrial systems and persons who have made an arrangement under section 101(2) of the Act, and exporters, to the extent required by the ISO tariff, and
- (ii) the amount payable by a DFO is recoverable in the DFO's tariff,

76. Section 40(2) of the *Transmission Regulation* states:

(2) A DFO may include in its distribution tariff

- (a) costs and expenses incurred by the owner in assisting the ISO in preparing forecasts, the transmission system plan, needs identification documents and updates to any or all of them,
- (b) the cost of evaluating the relative merits of transmission facility and distribution options, and
- (c) the costs incurred by the owner to assist the Market Surveillance Administrator in preparing reports made under section 23(2).

77. The definitions of transmission system, tariff, terms and conditions, and transmission facility set out in the *EUA* are expressly adopted in Section 1(2) of the *Transmission Regulation*. In particular, the *EUA* defines "transmission system" as "all transmission facilities in Alberta that are part of the interconnected electric system."⁶⁸

78. Section 2(1)(b) of the *Distribution Tariff Regulation* states:

Content of distribution tariff

2(1) A distribution tariff referred to in section 102 of the Act must include

- (a) the terms and conditions under which the owner proposes to offer distribution access service, and

⁶⁸ Section 1(ccc) of the *EUA*.

- (b) a charge for providing system access service that is separate from the charges for other components of distribution access service.

79. AltaLink asserted that the term “electric distribution system” as defined in the *EUA* and used in Section 102 of the act limits the DFO to including in its tariff only costs related to DFO distribution facilities. It further argued that Section 47 of the *Transmission Regulation* is of no assistance because it does not specify how those costs may be recovered through the AESO tariff, and in particular, it does not expressly or implicitly authorize a DFO to earn a return on transmission assets. Concerning the *Distribution Tariff Regulation*, it submitted that Section 2(1)(a) further supported its position that the reference to “distribution access service” prevents a DFO from earning a return on transmission assets. It did not comment on the other regulatory provisions referenced above.

80. Fortis argued that Section 28 of the *EUA* provides that the AESO is the sole provider of SAS on the transmission system, and that pursuant to Section 30 of the *EUA*, the AESO is required to prepare a single ISO tariff setting out the rates to be charged for SAS for each class of transmission customer.⁶⁹ Section 105 of the *EUA* requires the DFO to play a primary role in arranging SAS on behalf of end-use customers and financial settling with the AESO. The DFO’s primary role is further derived from the definition of the term “electric distribution service”:

1(1.1) “electric distribution service” means the service required to transport electricity by means of an electric distribution system

(i) to customers, or

(ii) from distributed generation to the interconnected electric system,

and includes any services the owner of the electric distribution system is required to provide by the Commission or is required to provide under this Act or the regulations, but does not include the provision of electricity services to eligible customers under a regulated rate tariff;

81. Fortis submitted that “electric distribution service” includes SAS as one of the services that the Commission requires DFOs to provide, under the *EUA* and the regulations.⁷⁰ Fortis explained its ability to recover its costs in its tariff as follows:⁷¹

Section 102(1) of the *EUA* requires each DFO “to prepare a distribution tariff for the purpose of recovering the prudent costs of providing electric distribution service by means of the owner’s electric distribution system.” A distribution tariff, by definition, and per the *Distribution Tariff Regulation* A.R. 162/2003, expressly includes both distribution and system access (transmission) service components. DFOs recover the charges as provided in their respective Commission approved DFO tariffs from end-use distribution customers.

82. Fortis argued that AltaLink’s focus on “by means of the owner’s electric distribution system” in Section 102 was an unreasonably narrow interpretation of the act.⁷² Fortis

⁶⁹ Exhibit 26061-X0021, Fortis evidence, paragraphs 19-20.

⁷⁰ Exhibit 26061-X0021, Fortis evidence, paragraph 25.

⁷¹ Exhibit 26061-X0021, Fortis evidence, paragraph 32.

⁷² Transcript, Volume 1, page 107, lines 11-24.

characterized Section 102 as a general provision setting out that the DFO must prepare a tariff and to whom it must apply. Fortis submitted that it is not credible to suggest that the words “by means of the owner’s electric distribution system” reveal an intent to allow customer contributions in Alberta, except in the case of DFOs.

83. Fortis also described other responsibilities of DFOs that relate to providing SAS, including assisting the AESO in preparing and updating needs identification documents (NIDs),⁷³ evaluating the relative merits of transmission and distribution options,⁷⁴ and arranging for SAS for smaller REAs and municipally owned DFOs downstream of Fortis’s distribution system.⁷⁵

84. The Commission finds that AltaLink’s position is unduly narrow and ignores the other duties and functions imposed on DFOs under the act and regulations. As the Commission has stated in paragraph 15 of this decision, when reviewing legislative provisions, it is necessary to consider these provisions within the context of the legislative framework.

85. The *EUA* ascribes a number of responsibilities to DFOs to provide electric service to customers beyond the use of its DFO assets. Sections 101 and 105 of the *EUA* make clear that DFOs bear the responsibility of securing SAS from the AESO. DFOs do so on behalf of their load customers generally and can do so on behalf of Direct Connect customers. As stated previously, there is no role under the legislative framework that permits a TFO to perform this service. Further, the act specifically requires the DFO to prepare its tariff in accordance with the regulations, which is stated both in Section 102⁷⁶ and in Section 119 of the act. Section 119 of the *EUA* states:

Preparation of tariffs

119(1) Each owner of an electric utility must prepare a tariff in accordance with this Act and the regulations and apply to the Commission for approval of the tariff.

86. The Commission fully understands that regulations are subordinate legislation to the act; however, the regulations and the provisions in the act can be read in harmony to further the objectives and purpose of the legislative framework. Moreover, the *EUA* confers broad authority on the Lieutenant Governor in Council in sections 142 and 143 of the act to enact regulations necessary to ensure the purposes and objective of the act. Of note, Section 142(2)(d) enables the establishment of regulations “adding to, clarifying, limiting or restricting any power, duty, responsibility or function conferred or imposed on any person or class of persons under this Act or regulating how they are to be exercised, despite any other provision of this Act or the regulations.”

87. The tariff contemplated in Section 119 encompasses those costs specified for recovery by the DFO under Section 102, the costs associated with the DFO’s requirement to obtain SAS, and with the provisions set out in the *Transmission Regulation* and the *Distribution Tariff Regulation*. The *Transmission Regulation* and the *Distribution Tariff Regulation* further clarify that the costs for SAS are recoverable under the DFO’s tariff and include:

⁷³ *Transmission Regulation*, Section 14(2)(d).

⁷⁴ *Transmission Regulation*, Section 14(2)(c).

⁷⁵ *Roles, Responsibilities, and Relationships Regulation*, Section 4.

⁷⁶ Reference to the regulations under Section 108 of the *EUA*.

- payments to evaluate the merits between transmission and distribution options, which is consistent with the Commission’s findings that an AESO tariff requires a customer contribution policy to ensure that there is an effective price signal to customers;
- payments required for the just and reasonable costs of the transmission system to be wholly charged to DFOs for obtaining SAS; and
- a charge in the DFO’s tariff for providing SAS.

88. Sections 121 and 122 of the *EUA* prescribe what the Commission must consider when evaluating a tariff that is submitted to it for approval.

Matters the Commission must consider

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, and

...

Costs and expenses recovered under a tariff

122(1) When considering a tariff application, the Commission must have regard for the principle that a tariff approved by it must provide the owner of an electric utility with a reasonable opportunity to recover

...

(b) other prudent costs and expenses associated with isolated generating units, transmission, exchange or distribution of electricity or associated with the Independent System Operator if, in the Commission’s opinion, they are applicable to the electric utility, [emphasis added]

(c) amounts that the owner is required to pay under this Act or the regulations,

...

(h) any other prudent costs and expenses that the Commission considers appropriate, including a fair allocation of the owner’s costs and expenses that relate to any or all of the owner’s electric utilities.

89. The Supreme Court of Canada, in *ATCO Gas and Pipelines Ltd v Alberta (Utilities Commission)*,⁷⁷ provided some general guidance to the Commission regarding its obligations under these provisions, stating:

⁷⁷ *ATCO Gas and Pipelines Ltd v Alberta (Utilities Commission)* 2015 SCC 45.

[42] Further, s. 121(4) of the *EUA* provides that the burden of establishing that the proposed tariffs are just and reasonable falls on the public utility. The requirement that tariffs be just and reasonable is a foundational requirement of the tariff-setting provisions of the *EUA*. Tariffs will not be just and reasonable if they do not comply with the statutory requirement of s. 122 that the costs and expenses be prudent. Thus, contrary to the ATCO Utilities' proposed methodology, the utilities' burden to establish that tariffs are just and reasonable necessarily imposes on the utilities the burden of establishing that costs are prudent.

...

[61] As discussed above, a key principle in Canadian regulatory law is that a regulated utility must have the opportunity to recover its operating and capital costs through rates: *OEB*, at para. 16. This requirement is reflected in the *EUA* and *GUA* [*Gas Utilities Act*], as these statutes refer to a reasonable opportunity to recover costs and expenses so long as they are prudent. A regulator must determine whether a utility's costs warrant recovery on the basis of their reasonableness — or, under the *EUA* and *GUA*, their “prudence”.

90. AltaLink argued that the Commission has limited discretion to include certain costs and expenses in a utility tariff. In particular, AltaLink contends that sections 37 and 102 of the *EUA* require a TFO to recover costs associated with a transmission system and preclude a DFO from recovering costs associated with a transmission system based on the mutually exclusive definitions of “electric distribution system” and “transmission facility.”⁷⁸ AltaLink asserted that sections 122(1)(b) and (h) do not operate as a blanket authority to include “any other prudent cost” in a DFO tariff irrespective of the statutory scheme and that any exercise of discretion that contravenes the statutory scheme would be a jurisdictional error.⁷⁹

91. Fortis argued that Section 122 provides that “the Commission must have regard for the principle that a tariff approved by it must provide the owner of an electric utility with a reasonable opportunity to recover ... the costs and expenses associated with capital related to the owner's investment in the electric utility ... if the costs and expenses are prudent ...”⁸⁰ Fortis contended that arranging for system access and financially settling with the AESO for its end-use customers is part of providing distribution service.⁸¹

92. Fortis argued that the recoverable costs under Section 122 are broad and the provision shows no intent to limit recovery to capital investments in distribution assets owned by a DFO. Section 122(a) provides for the “reasonable opportunity to recover the costs and expenses associated with capital related to the owner's investment in the electric utility,” and is followed by a non-exhaustive list of recoverable cost categories. In addition, Fortis noted sections 122(b) (c) and (h).⁸²

93. The Commission finds that AltaLink's position is inconsistent with the overall statutory scheme. The subsections found in Section 122 provide a non-exhaustive list of matters to be considered by the Commission when establishing a just and reasonable tariff. In particular, Section 122(1)(h) is included as a catch-all provision recognizing that it would be impossible for

⁷⁸ Exhibit 26061-X0026, AltaLink evidence, paragraph 101.

⁷⁹ Exhibit 26061-X0026, AltaLink evidence, paragraph 103.

⁸⁰ Exhibit 26061-X0021, Fortis evidence, paragraph 28.

⁸¹ Exhibit 26061-X0021, Fortis evidence, paragraph 29.

⁸² Exhibit 26061-X0021, Fortis evidence, paragraph 30.

the drafters of the legislation to anticipate and enumerate each and every type of cost that may arise for a regulated utility and for which it may seek tariff recovery.

94. Because the legislative provisions impose the obligation on the DFO to secure SAS and, more significantly, clarify that the costs of doing so may be included within the DFOs tariff, the Commission’s assessment of these costs, as part of its authority to determine what is just and reasonable in the tariff is wholly consistent with the statutory scheme. Moreover, the *EUA* does not prescribe how those construction contribution costs are to be recovered within the DFO’s tariff.

95. Further, the language in Section 122(1)(b) is broadly drafted and is intended to encompass costs applicable to a utility, as determined by the Commission, that are necessary to facilitate the distribution or exchange of electricity. The Commission considers that the legislature’s choice to not use the defined terms “transmission facility” and “electric distribution system” must be considered when interpreting this subsection. The legislature chose to draft the passage permitting the Commission to allocate recovery of costs that it considered applicable for the “exchange” of electricity. The provision does not specify that it be done through specific assets.

96. More significantly, Section 122(1)(c) includes “amounts that the owner is required to pay under this Act or the regulations.” As set out above, there can be no question that under the *EUA* and the regulations, the DFO is required to arrange for SAS to customers in its service area, to pay the AESO for the costs associated therewith, and that it may request recovery of these costs in its tariff. It is left to the Commission to determine what constitutes a reasonable opportunity to recover these amounts.

97. Based on its findings, the Commission considers that any of sections 122(1)(b), (c) or (h) empower the Commission to consider costs related to AESO customer contributions in a DFO’s tariff. The legislation gives the Commission the discretion to determine whether and how such costs are recoverable, subject to the requirements that the owner be provided with a reasonable opportunity to recover these costs in its tariff once the costs and expenses are determined to be reasonable or prudent, and subject to the direction in Section 121 of the act that the Commission approve a tariff that is just and reasonable, not unduly preferential, arbitrary, unjustly discriminatory or inconsistent with the law.

3.1.3.3 DFO recovery of AESO customer contributions

98. Having ascertained that:

- (a) an AESO customer contribution policy that requires both DFOs and Direct Connect customers to pay for any additional transmission facility costs above the maximum investments levels set by the AESO is consistent with the legislation;
- (b) neither the payment of a customer contribution by a Direct Connect customer or a DFO to the AESO, nor the absence of any customer risk for a stranded asset affects the TFO’s ownership of the transmission assets, which is different from the rate base value on which the TFO earns a return;
- (c) when a customer contribution policy is approved by the Commission as part of the AESO’s tariff, the legislative framework imposes on the DFO the responsibility to

make this payment, and permits the DFO to seek recovery of these costs in its tariff; and

- (d) the Commission has the discretion, as part of its authority to set just and reasonable rates under the *EUA*, to determine how customer contribution costs paid by DFOs are recovered in the DFO tariff,

the Commission now examines how DFOs, and specifically, Fortis, have been recovering these contribution costs.

3.1.3.3.1 Cost-of-service treatment of customer contributions

99. Until 2013, DFO rates were established under cost-of-service ratemaking. Under this framework, rates were based on forecast costs of providing service, including an approved rate of return on the equity invested by shareholders to build the capital facilities necessary to provide service. Under this system, rates were set by testing an application filed by the distribution utility based on its forecast of costs, generally for a one- or two-year test period.

100. During the period in which DFO tariffs were under cost-of-service ratemaking, AESO customer contribution amounts were capitalized and depreciated over future years for accounting and regulatory purposes.⁸³ Because the changes to AESO customer contributions can be material and are beyond a DFO's management control, these amounts were typically subject to deferral account treatment.⁸⁴ The DFOs put the contribution amounts into rate base and earned an approved rate of return on these amounts. However, for tax purposes, the contributions were treated as an expense, at least for some DFOs. For example, in Decision 2010-309, Fortis's 2010-2011 distribution tariff, the Commission stated:

171. FAI [FortisAlberta Inc.] reviewed its treatment of transmission facility AESO contributions for tax purposes. These amounts were capitalized and depreciated over future years for accounting and regulatory purposes. As the facilities for which the contributions are made are not owned by FAI, the amounts are not on account of capital, but can be fully deducted when paid, based on FAI's analysis.

...

173. The Commission finds the proposed treatment of AESO contributions for tax purposes to be reasonable. As the contributions do not relate to facilities owned by FAI, the contributions are not related to capital. Therefore, the Commission approves FAI's request to expense AESO contributions in the year incurred....

⁸³ Decision 2010-309: FortisAlberta Inc., 2010-2011 Distribution Tariff – Phase I, Proceeding 212, Application 1605170-1, July 6, 2010, paragraph 171; Decision 2014-347: ENMAX Power Corporation, 2014 Phase I Distribution Tariff Application, 2014-2015 Transmission General Tariff Application, Proceeding 2739, Application 1609784-1, December 16, 2014, Section 8.3.2, Table 55; Decision 2011-134: ATCO Electric Ltd., 2011-2012 Phase I Distribution Tariff, 2011-2012 Transmission Facility Owner Tariff, Proceeding 650, Application 1606228-1, April 13, 2011, Section 5.2.4; Decision 2012-272: EPCOR Distribution & Transmission Inc., 2012 Phase I and II Distribution Tariff, 2012 Transmission Facility Owner Tariff, Proceeding 1596, Application 1607944-1, October 5, 2012, Section 4.1.2.

⁸⁴ See for example, Decision 2010-309, paragraph 280, and Decision 2011-134, paragraph 191.

101. Decision 2012-108⁸⁵ was the last Fortis cost-of-service tariff decision. In that decision, the Commission again approved the recovery of AESO customer contribution costs within Fortis's tariff and the continuation of the deferral account for recovery of these costs. The Commission added that amounts in the deferral accounts "will need to be addressed as a transitional item for entry into PBR-determined revenue requirements and rates commencing with 2013."⁸⁶

3.1.3.3.2 PBR treatment

102. In Decision 2012-237,⁸⁷ the Commission approved 2013-2017 PBR plans for DFO tariffs. The PBR framework approved in that decision set out a price cap rate-setting mechanism for electric distribution utilities based on a formula that adjusted rates annually by means of an indexing mechanism that tracks the rate of inflation (I) that is relevant to the prices of inputs the utilities use, less a productivity offset (X).⁸⁸

103. In addition to the I-X mechanism (and other factors, such as Y and Z) the Commission determined that a mechanism to fund certain capital-related costs outside of the I-X mechanism through a capital factor was required and included a capital tracker mechanism in the PBR plans.⁸⁹ The Commission considered that a capital tracker mechanism would be warranted in circumstances where the company could demonstrate that a necessary capital project required by a third party could not reasonably be expected to be recovered through the I-X mechanism.⁹⁰

104. Following the release of Decision 2012-237, the Commission released Decision 2013-435 to provide further direction to all DFOs regarding the recovery of capital tracker funding.⁹¹ In that proceeding, Fortis noted that AESO customer contributions and substation associated upgrades result from a well-established process that involves Fortis, the AESO and AltaLink. This process includes a needs assessment, consideration of solutions that may be distribution-related or transmission-related or both, and approval of the results by the Commission.⁹² AltaLink registered in the proceeding, but did not actively participate or seek a review or appeal of the Commission's findings. Under the 2013-2017 PBR plans, Fortis⁹³ and other DFOs⁹⁴ have

⁸⁵ Decision 2012-108: FortisAlberta Inc., Application for Approval of a Negotiated Settlement Agreement in respect of 2012 Phase I Distribution Tariff Application, Proceeding 1147, Application 1607159-1, April 18, 2012.

⁸⁶ Decision 2012-108, Section 4.3.5.

⁸⁷ Decision 2012-237: Rate Regulation Initiative, Distribution Performance-Based Regulation, Proceeding 566, Application 1606029-1, September 12, 2012.

⁸⁸ Decision 2012-237, paragraph 16.

⁸⁹ Decision 2012-237, paragraph 586.

⁹⁰ Decision 2012-237, paragraph 587.

⁹¹ Decision 2013-435: Distribution Performance-Based Regulation, 2013 Capital Tracker Applications, AltaGas Utilities Inc., ATCO Electric Ltd., ATCO Gas and Pipelines Ltd., EPCOR Distribution & Transmission Inc. and FortisAlberta Inc., Proceeding 2131, Application 1608827-1, December 6, 2013, paragraph 37.

⁹² Decision 2013-435, paragraph 272.

⁹³ Decision 3220-D01-2015: FortisAlberta Inc., 2013-2015 PBR Capital Tracker Application, March 5, 2015, paragraphs 196-200.

⁹⁴ ENMAX: Decision 21508-D01-2017: ENMAX Power Corporation, 2015-2017 Capital Tracker Application, Proceeding 21508, December 13, 2017, Table 1 and Section 6; Decision 23694-D01-2019: ENMAX Power Corporation, 2017 Capital Tracker True-Up Application, Proceeding 23694, March 5, 2019, Section 1, paragraph 2, Table 1 and Section 6; ATCO Electric: Decision 23739-D01-2018: ATCO Electric Ltd., 2017 Performance-Based Regulation Capital Tracker True-Up, Proceeding 23739, December 18, 2018, Section 7.2.2; EPCOR: Decision 2013-435, Section 8.7 and Table 24.

received approval for capital tracker treatment of their AESO customer contributions when the criteria, developed in Decision 2012-237, were met.

105. The first PBR term (2013-2017) expired on December 31, 2017. In Decision 20414-D01-2016,⁹⁵ the Commission set out the parameters of the 2018-2022 PBR plans applicable to the distribution utilities. In that decision, the Commission determined that a supplemental capital funding mechanism, in addition to revenue provided under I-X, was required for the 2018-2022 PBR plans. However, in place of the capital tracker mechanism employed in the first generation PBR plans, the Commission adopted a capital funding model that divided incremental capital funding into two categories: Type 1 and Type 2 capital. For Type 1 capital, the Commission approved a modified capital tracker mechanism. For Type 2 capital, the Commission approved a K-bar mechanism to provide a set amount of capital funding for each year of the 2018-2022 PBR term based, in part, on capital additions made during the previous PBR term.⁹⁶ At the time of the rebasing for the 2018-2022 PBR term, any capital that was included in historical rate base was included as a Type 2 project in the calculation of base K-bar for each of the DFOs. As such, under the 2018-2022 PBR plans, AESO customer contributions made by DFOs that had been recovered as a capital tracker were recovered under K-bar.

106. In the case of Fortis, the issue of AESO customer contributions has garnered much attention and was a subject of several proceedings. In Decision 21538-D01-2017,⁹⁷ the Commission noted that costs for a TFO project are not considered final until they have been approved by the Commission in the associated TFO direct assigned capital deferral account proceeding and that ideally the actual contribution amounts paid by Fortis should ultimately correspond to the actual contributions that AltaLink deducts from its gross additions to its rate base.⁹⁸ In Decision 23505-D01-2018,⁹⁹ the Commission approved a hybrid deferral account approach for Fortis, where projects that had received a permit and licence prior to December 31, 2017, were given deferral account treatment provided that the Commission had approved the need, scope, level, timing and associated costs for the project as part of a capital tracker review. Projects that receive a permit and licence after December 31, 2017, are managed under the incentive properties of K-bar under the 2018-2022 PBR term.

107. From 2017 to 2019, issues arose concerning the finalization of the AESO customer contribution amounts included in Fortis's tariff. However, there was no change in direction concerning how these contribution amounts were recovered in the 2018-2022 PBR term for any of the DFOs.

108. In the Commission's view, permitting the DFOs to earn a return on AESO customer contributions, whether under cost of service, or in PBR, is not unlike allowing the utilities to collect carrying charges on costs subject to deferral account treatment (deferred amounts). Similar to the AESO customer contributions, other utility payments towards utility assets may not be finalized and cannot, therefore, be assessed for prudence for a number of years. As such,

⁹⁵ Decision 20414-D01-2016: 2018-2022 Performance-Based Regulation Plans for Alberta Electric and Gas Distribution Utilities, Proceeding 20414, December 16, 2016.

⁹⁶ Decision 20414-D01-2016, see sections 6.4.2 (Type 1) and 6.4.3 (K-bar).

⁹⁷ Decision 21538-D01-2017: FortisAlberta Inc., 2015 PBR Capital Tracker True Up, Proceeding 21538, January 26, 2017.

⁹⁸ Decision 21538-D01-2017, paragraphs 221, 229.

⁹⁹ Decision 23505-D01-2018: Commission-Initiated Review and Variance of Decision 22741-D01-2018, Proceeding 23505, November 7, 2018.

these payments cannot be recovered from customers until several years later. To compensate the utility for the time value of money spent, the utility is allowed to collect carrying charges. While most often these carrying charges are based on the cost of debt, the Commission has exercised its tariff setting discretion under the *EUA* and has, on a case-by-case basis, allowed regulated utilities (both TFOs and DFOs) to apply the weighted average cost of capital (WACC) to the deferred amounts. In such cases, these utilities earn a return on the portion of the deferred amounts financed by shareholder equity, and recover the cost of debt on the portion of the deferred amounts financed by debt, until the balances are recovered.

109. From this perspective, allowing the DFO to earn the WACC on customer contributions can be viewed as a financing mechanism to facilitate the recovery of the invested contribution amounts and to compensate for the time value of the invested funds.

3.1.4 Conclusion to Question 1: Is the current treatment of customer contributions supported by the legislative framework?

110. In response to the first question, having examined the legislative framework and the history of Commission decisions addressing the payment of a customer contribution within the AESO tariff, the recovery of these costs by the DFO in its tariff and the Commission's legislative ratemaking authority to determine how customer contribution costs paid by DFOs are recovered in the DFO tariff, the Commission concludes that the current treatment of AESO customer contributions, including the way that DFOs recover the invested contribution amounts, is supported by the legislative framework.

111. The Commission next considers whether the current treatment of AESO customer contributions should be continued or modified. This is the substance of the second question raised by the Commission in this proceeding.

3.2 What effect, if any, do the incentives in PBR and cost-of-service rate regulation have on achieving the objectives of the ISO contribution?

112. The Commission continues to support the principles it had previously identified as the foundation for a customer contribution policy, the most important of which is the establishment of an effective price signal for the siting of connection facilities. As noted above, in Decision 2012-362, the Commission found that the AESO's customer contribution policy should "exert an economic discipline on siting decisions by sending price signals, reflective of the AESO's economics, to connecting customers."¹⁰⁰ Further, customer contributions are intended to balance the economic effects of connecting a new customer between existing customers and the new customer.¹⁰¹

113. As explained previously in this decision, a CIAC is required to be made by a connecting customer when the construction and associated costs of transmission facilities required to provide SAS exceed the available investment by the AESO (the maximum investment level). Connecting customers that have to bear the project costs above the AESO maximum investment levels by way of a CIAC are incented to (i) request the most economical connection facilities and service requirements that meet their needs; and (ii) take into account proximity to the existing or

¹⁰⁰ Decision 2012-362, paragraph 36.

¹⁰¹ Decision 2012-362, paragraph 11.

planned transmission system when considering alternative locations for their load to be served.¹⁰² In turn, these contribution amounts offset the investments made by the TFO (with a TFO only investing up to the maximum investment level and therefore only receiving a return of, and on, that investment). As a result, existing customers do not unduly subsidize the construction of new facilities.

114. However, unlike Direct Connect customers who bear the costs of the connection directly, DFOs can pass the costs of the CIAC on to distribution ratepayers. From a regulatory perspective, the recovery of an AESO customer contribution is indistinguishable from the way in which the DFO recovers its capital assets and puts the invested contributions under the same incentives.

115. The Commission has previously commented on the incentives associated with cost-of-service regulation:

... under cost of service regulation, since the company earns a profit on the equity in its rate base, there is an incentive to choose spending money on capital assets, on which a return can be earned, over spending on maintenance, for example, on which a return is not earned. In addition, there is no incentive to minimize the costs of capital assets. The more that is spent and included in the rate base, the more return that can be earned.¹⁰³

116. In Decision 20414-D01-2016, the Commission recognized that similar incentives were also present under the capital tracker mechanism included in the 2013-2017 PBR plans regarding capital expenditures (including the AESO customer contributions). Capital trackers were administered in a manner similar to traditional cost-of-service regulation (i.e., relying on prudence reviews to establish the necessary level of capital investment) and had the unintended effect of placing a considerable amount of capital outside of the incentive-enhancing I-X mechanism.¹⁰⁴

117. As noted in Section 3.1.3.3, currently, the DFO's contributions to the AESO, along with other capital, are managed under the K-bar mechanism that provides distribution utilities with the necessary incremental capital funding.¹⁰⁵ The K-bar mechanism does not track the costs of individual projects but instead provides a set amount of funding for each year for all expenditures, thus providing the incentive for the utility to manage its overall costs under the funding envelope of the PBR plan. However, because the level of K-bar funding is based, in part, on capital additions that were made during the previous PBR term under the capital tracker mechanism that provided little incentive to contain costs, at this time, it is unknown to the Commission whether the AESO customer contribution amounts paid during the current PBR term were subject to sufficient incentives to minimize costs.

118. The Commission finds EPCOR's evidence¹⁰⁶ useful regarding the interaction of the level of PBR rate base funding, and the countervailing incentives for a utility to earn a profit during the PBR term and to grow its rate base over the long term. The Commission further agrees with EPCOR's conclusion that "one cannot, without looking at all relevant facts applicable to each

¹⁰² Decision 2012-362, paragraph 40.

¹⁰³ Decision 2012-237, paragraph 11.

¹⁰⁴ Decision 2012-237, paragraph 586.

¹⁰⁵ Decision 20414-D01-2016, paragraph 286.

¹⁰⁶ Exhibit 26061-X0024, EPCOR evidence, paragraphs 26-30.

DFO, state conclusively how or to what extent PBR2 [the current PBR plan] incentives would influence the achievement (or non-achievement) of the goal behind sending an appropriate price signal: to incent the most economical customer connections to the transmission system.”¹⁰⁷

119. AltaLink submitted that pure-play DFOs (that is, DFOs that do not have an affiliated transmission division) such as Fortis are incented under PBR to maximize their AESO customer contributions in order to increase their rate base and obtain as much funding as possible under rebasing.¹⁰⁸ To support this view, AltaLink noted that “Fortis has a much higher level of capital investment driven by customer contributions than any other DFO and its mid-year rate base associated with customer contributions grew from \$9M [million] in 2006 to \$398M in 2017, and is forecast to be approximately \$544M by 2022.”¹⁰⁹ AltaLink also argued that DFOs have an uneconomic incentive under the current contribution policy to initiate the construction of transmission infrastructure in furtherance of a DFO need. AltaLink, therefore, submitted that the current treatment of AESO customer contribution amounts by DFOs fails to provide effective price signals.¹¹⁰

120. In Proceeding 22942, the 2018 ISO tariff proceeding, the Commission examined the size of Fortis’s AESO customer contribution balance in comparison to the size of the balances of other DFOs. This examination included review of similar evidence that AltaLink has submitted in this proceeding.¹¹¹ In Decision 22942-D02-2019, the Commission determined that the size of Fortis’s AESO customer contribution balances were significantly higher in relation to the AESO customer contribution balances of other DFOs and that the differences could not be attributed entirely to differences in the size or nature of Fortis’s operations. However, the Commission found that there was “insufficient evidence to support AltaLink’s contention that Fortis caused the construction of excessive transmission voltage connected facilities.”¹¹² The Commission has not varied these findings.

121. Notwithstanding, the Commission considers that there is a general incentive for DFOs to increase the amount of AESO customer contributions to grow rate base, and that this incentive is exacerbated by the fact that a DFO has a degree of influence on transmission project requirements, associated costs, and therefore AESO customer contribution amounts. As noted above, it is the responsibility of the DFO to work with its customers to identify distribution connection capabilities. When the distribution system access is inadequate to meet capacity or reliability requirements and a transmission solution is the preferred alternative, the DFO files a system access service request (SASR) with the AESO on behalf of the DFO or its customer.

122. AltaLink cited the AESO’s testimony from the 2018 ISO tariff proceeding that distribution planning is beyond the AESO’s mandate, and that it is “primarily relying” on the DFO’s assessment of need for transmission facilities.¹¹³ In Decision 21538-D01-2017, the Commission observed that the DTS contract capacity increment assigned to each transmission project, which was determined by Fortis, was a key driver of the maximum investment level set for each project and affected the amount of the contribution required to be funded by Fortis. The

¹⁰⁷ Exhibit 26061-X0024, EPCOR evidence, paragraph 32.

¹⁰⁸ Exhibit 26061-X0026, AltaLink evidence, paragraph 143.

¹⁰⁹ Exhibit 26061-X0026, AltaLink evidence, paragraph 29.

¹¹⁰ Exhibit 26061-X0026, AltaLink evidence, PDF page 3.

¹¹¹ See for example references to AltaLink evidence noted in paragraph 999 of Decision 22942-D02-2019.

¹¹² Decision 22942-D02-2019, paragraphs 1028-1030.

¹¹³ Exhibit 26061-X0026, AltaLink evidence, paragraph 19.

Commission observed that the AESO customer contribution amounts incurred may reflect decisions within a greater degree of Fortis's control than may have been recognized in prior proceedings, where the Commission had relied primarily on evidence that the contributions were driven by, and involved decisions made by third parties, namely the AESO and AltaLink.¹¹⁴

123. The Commission considers that the amount of the AESO customer contributions related to specific projects included in a DFO's rate base can be reduced by flowing through all, or a portion of, the contribution amount, to the end-use customers driving the need for the project (assuming the presence of one or more identifiable end-use customers). However, in Decision 21538-D01-2017, the Commission noted that Fortis confirmed that it has not received, nor did it expect to receive, any customer contribution amounts from its end-use customers served through the transmission facilities.¹¹⁵

124. In Decision 21538-D01-2017, the Commission stated its concern that AESO customer contributions were not being flowed through to some large customers, resulting in a potential for substantial stranded investments in new or upgraded transmission connection facilities which would be borne by customer classes that did not require additional capacity. The Commission considered that the transfer of transmission investment risk from Fortis's larger capacity customers to smaller customers could potentially be mitigated by flowing through some or all of the AESO customer contributions to the end-use customers that may be the primary drivers of transmission investments.¹¹⁶

125. Based on this analysis, the Commission finds that the current DFO tariff recovery mechanism applicable to AESO customer contribution amounts fails to provide effective price signals intended to incent the end-use customers to choose the most economical connection solution.

126. First, the DFO is not generally flowing the costs of the AESO customer contribution amounts to the end-use customers that trigger the need for new connection assets. As a result, the costs of the AESO customer contributions associated with the connections are socialized across all DFO customers. This mutes the price signal on siting decisions since the customer or customers that caused the need for a new connection do not directly pay their share of the AESO customer contribution associated with the assets ultimately built. Conversely, when the AESO customer contributions are passed-through to an end-use customer of a DFO or are paid by a Direct Connect customer, the intended price signal to impose economic discipline on siting decisions operates properly.

127. Second, the DFO is able to earn a return on its invested AESO customer contribution amounts. As a result, the intended price signal is at best distorted or muted and is likely absent. In fact, what was intended to be a price signal is converted to a revenue signal to a DFO. The Commission considers that the tariff recovery mechanism applicable to AESO customer contributions could create an incentive for Fortis, as a pure-play DFO, to prefer a transmission solution over a distribution solution, because it would need to manage and operate the assets

¹¹⁴ Decision 21538-D01-2017, paragraphs 234-235.

¹¹⁵ Decision 21538-D01-2017, paragraph 212.

¹¹⁶ Decision 21538-D01-2017, paragraphs 247-248.

associated with a distribution solution and bear all of the attendant ownership risks, when it receives the same rate of return on the investment in either case.

128. The Commission also finds, however, that allowing a TFO to earn the return on the AESO customer contributions paid by a DFO through a refund, as proposed by AltaLink, would also mute the price signal to “right-size” the capital cost of new facilities. AltaLink’s proposal would allow it to earn a return on “gross” rate base rather than on rate base net of contributions, thereby nullifying the price signal to customers which is intended to bring discipline to the cost of new facilities and result in prudent investment. Consequently, the Commission finds that it is not in the public interest for either a DFO or a TFO to earn a return on AESO customer contributions. For this reason, the Commission denies the application of AltaLink’s proposal.¹¹⁷

3.3 Addressing the identified incentives

129. As the Commission previously observed in Decision 21538-D01-2017, the tariff recovery mechanism for AESO customer contributions (as part of the overall issue of transmission project costs) is complex and is affected by the interactions of distribution and transmission utilities, as well as the AESO’s role, in planning and executing new transmission connection projects. The interaction of these three parties affects the process of identifying cost-effective transmission solutions to supply load growth on distribution systems.

130. The CCA’s recommendations involved better cost oversight for proposed projects. In this regard, the CCA recommended that the Commission direct AltaLink to participate in all NID applications filed by the AESO as part of a more robust review of the DFO system and customer requirements, including the DFO forecast load that underpins the SASR and consideration of whether the TFO solution is the preferred alternative.¹¹⁸ Ultimately, this enhanced process would assist in efforts to ensure that transmission facilities being proposed are reasonable and the risk of an overbuild, underutilized assets, and unnecessary costs are minimized. While the Commission is supportive of the initiatives to better scrutinize the need for, scope and costs of the proposed transmission solutions, the CCA’s proposal only partially addresses the problem. That is, it does not address the revenue signal to the DFO to increase the contribution described in Section 3.2 above.

131. The CCA also submitted that from the perspective of sending the proper price signal, the contribution must be borne by the end-use customer driving the need for new projects.¹¹⁹ It further submitted that “if FortisAlberta is not entitled to recover the costs and earn a return on the AESO contributions, then this would also remove an incentive for FortisAlberta to grow rate base and would ensure that Fortis considers both transmission and distribution solutions to provide service to customers.”¹²⁰

¹¹⁷ In Decision 22942-D02-2019, paragraph 889: “In its evidence, AltaLink described the basic mechanics of its proposal as follows: The DFO pays a customer contribution to the TFO as provided for under the current AESO customer contribution policy; The TFO returns the customer contribution to the AESO; The AESO then returns the customer contribution to the DFO; The DFO is billed by the AESO for the TFO’s revenue requirement associated with the transferred investment.; The AESO applies this revenue as an offset to its tariff, thereby keeping distribution and transmission customers whole.”

¹¹⁸ Exhibit 26061-X0019, CCA evidence, paragraph 51.

¹¹⁹ Exhibit 26061-X0019, CCA evidence, paragraph 32.

¹²⁰ Exhibit 26061-X0019, CCA evidence, paragraph 41.

132. The Commission agrees with these recommendations and finds that it is in the public interest to address the issues arising from the revenue signal identified in this decision and to better achieve the underlying objective of the AESO customer contribution policy; namely, to send price signals to connecting customers that are considering alternatives for siting their interconnecting loads. To achieve this objective, it is necessary to (i) remove the profit element (i.e., return-on-equity component) earned on any AESO customer contribution payments DFOs make; and (ii) to the extent possible, flow these contributions through to the DFO customer that is choosing between a transmission or distribution connection.

133. By first removing the profit element, the conflict between the incentive for a DFO to increase its rate base and the requirement to consider the least cost technical solution to meet customer connection requirements is removed. Second, by flowing through the AESO customer contributions, where possible, to the specific customers that require the connection and, therefore, the additional investment, the price signal is imposed on the customer, in terms of decisions both with respect to siting and to the nature and size of facilities required.

134. The Commission understands that if a DFO is not allowed to earn a return on AESO customer contributions, accounting principles may not allow the DFO to capitalize these contributions and include them in rate base. Rather, a DFO may be required to account for the contribution payments as an expense item. The Commission considers that while recovery of future AESO customer contribution payments made by a DFO may be as simple as including all the annual contribution payment amounts in the corresponding annual revenue requirement, there are other ratemaking principles that need to be considered, including rate shock and rate stability. For example, another possible option for the recovery by a DFO of AESO customer contribution amounts could involve the establishment of a contributions reserve account. This would allow recovery of the contribution amounts to be smoothed over a number of years. This would also address volatility or “lumpiness” in the annual contribution costs thereby reducing volatility in the DFO’s annual rates. If contributions were to be included within a reserve account, the DFO’s recovery of financing costs associated with the reserve account would need to be addressed.

135. The scope of this proceeding was limited to determining whether the legislative framework supported the AESO customer contribution policy, the effect, if any, that the incentives in PBR and cost-of-service rate regulation have on achieving the objectives of the AESO customer contributions, and, if a new policy is approved, on what prospective date it should be effective. This scope and the corresponding record of this proceeding do not extend to establishing a new DFO tariff recovery mechanism applicable to AESO customer contributions.

136. Recognizing these limitations in scope, the Commission will commence a process to examine the tariff mechanism for the recovery of future AESO customer contributions within the DFO tariff that takes into account the findings of the Commission herein.

137. Considering the lumpy nature of the AESO customer contribution amounts paid by DFOs in any given year, and the potential for rate shock and rate volatility that could arise from changing the regulatory accounting treatment of AESO customer contribution amounts paid by DFOs to an expense item, the Commission directs DFOs to propose an accounting method that will recognize these DFO costs in a manner that allows the DFO to make the investment (earning no profit and suffering no loss) and allows for the recovery of the AESO customer contribution amounts from the DFOs customers on a go-forward basis.

138. The Commission encourages DFOs to explore whether a uniform revised accounting treatment of AESO customer contributions, meeting the objectives set out in this decision, can be accommodated by all DFOs. DFOs are encouraged to cooperate and develop a joint regulatory accounting proposal for consideration by the Commission.

139. The Commission therefore directs the DFOs to file a proposal or proposals for a revised regulatory accounting treatment of their subsequent AESO customer contributions by May 31, 2021, to reflect the findings in the present decision. Consistent with the findings in this decision, any DFO proposal should exclude the profit element (i.e., return-on-equity component) and/or the use of WACC as part of the recovery of any incurred financing costs associated with AESO customer contribution amounts. DFOs should consider the following factors in the development of any proposal:

- An evaluation of whether it is appropriate to recover AESO customer contributions as an expense item in the year they are made, similar to other operating expenses.
- The use of a reserve account or similar mechanism if it is determined that DFO AESO customer contribution amounts are too large to be fully recovered in the year they are made. If a reserve account is required, the proposal(s) should consider the appropriate amortization period for recovery of the contribution amounts and of how the debt-only financing costs associated with the reserve account should be calculated and recovered.
- A proposal for greater cost accountability for the customers that drive the SASR and the CIAC required for the new facilities connection.
- The impact of the revised accounting treatment proposal(s) on each DFO.
- Any risks associated with the proposal(s), the likelihood of the risks arising and the consequences of the risks should they occur.

3.4 Effective date of the revised accounting treatment

140. As stated in the Commission's notice of application and scope of issues dated November 10, 2020, the issues in the current proceeding were being considered on a prospective basis.

141. The Commission received submission from parties that argued that any findings from this decision be effective January 1, 2021, be deferred or considered within the AESO's holistic review, or only become effective after the current PBR term. Party submissions are summarized as follows:

- AltaLink submitted that the effective date of its proposal be no later than January 1, 2021, and that any required adjustments such as refunds of customer contributions by the TFO to the DFO regarding any energized projects should take place from that time as would any associated billing amounts.¹²¹
- EPCOR concurred with AltaLink that the AltaLink proposal should be implemented effective January 1, 2021.¹²²

¹²¹ Exhibit 26061-X0100, AltaLink final argument outline, PDF page 5.

¹²² Exhibit 26061-X0094, EPCOR summary of oral argument, PDF page 4.

- Fortis and ENMAX submitted that any changes to the AESO’s customer contribution policy that affect DFO customer contributions or how they are treated should not be implemented prior to the start of the next PBR term in 2023 and no sooner than the start of the next PBR year (January 1, 2022).¹²³ Fortis and ENMAX also submitted that any concerns or changes to the AESO customer contribution policy should be considered as part of the AESO’s forthcoming holistic review.¹²⁴ ENMAX recommended that the Commission direct the AESO to incorporate the applicability and structure of a customer contribution policy as part of a holistic approach in an AESO tariff proceeding.
- The CCA and ATCO Electric submitted that the current issue is best examined as part of the forthcoming AESO tariff application and now considers that this issue is best addressed in the upcoming ISO tariff application as part of a comprehensive review of the full customer contribution policy issue.¹²⁵ ATCO Electric argued that the implementation of any decision be applied on a go-forward basis.¹²⁶
- AESO submitted that absent the AUC finding meaningful benefits to ratepayers arising from the AltaLink proposal or the AUC determining it is offside the legislative framework for a DFO to earn a return, the status quo should be maintained until these issues can be more meaningfully considered in the AESO’s upcoming contribution policy review.¹²⁷

142. Given the Commission’s determination that there should be no change to the AESO customer contribution policy and that the inclusion of the AESO customer contributions in the DFO tariff is consistent with the legislative framework, a change to the DFO tariff recovery mechanism will be applied on a prospective basis to new AESO customer contributions, effective as of the date of this decision, consistent with the scope of issues for the proceeding included in the Commission’s November 10, 2020, notice of application. The DFOs are directed to track all subsequent AESO customer contribution payments as placeholders. The tariff recovery mechanism currently in effect for AESO customer contributions made prior to the date of this decision shall continue to be in effect until these costs are fully depreciated.

143. Further, it is the Commission’s preference that the revised accounting treatment of AESO customer contributions by DFOs be designed in such a way that no changes are required to the current PBR plans, including changes to the K-bar mechanism, or to the current DFO PBR rates. The Commission considers that the change in regulatory accounting treatment of new AESO customer contributions will be reflected in DFO’s rates as part of the upcoming DFO cost-of-service rebasing process for 2023.

144. In light of the upcoming rebasing process that is expected to begin in late 2021, the Commission directs DFOs to file their proposed regulatory accounting treatment for AESO customer contributions by May 31, 2021.

¹²³ Exhibit 26061-X0095, ENMAX oral argument, AESO Contribution Policy, PDF page 3.

¹²⁴ Exhibit 26061-X0097, Fortis summary of argument re ACCP [AESO customer contribution policy], PDF page 3.

¹²⁵ Exhibit 26061-X0092, CCA summary of oral argument, PDF page 2.

¹²⁶ Exhibit 26061-X0093, ATCO Electric argument summary, PDF page 4.

¹²⁷ Exhibit 26061-X0099, AESO summary of argument, PDF page 3.

4 Order

145. It is hereby ordered that:

- (1) The Alberta Electric System Operator customer contribution policy as set out in the AESO tariff in Decision 24932-D01-2020 remains in effect.
- (2) Distribution facility owners are directed to file a proposal or proposals for a revised regulatory accounting treatment for future AESO customer contributions by May 31, 2021.
- (3) Effective as of the date of this decision, the distribution facility owners are directed to track all subsequent AESO customer contribution payments, with the specific accounting treatment for these contributions and carrying costs subject to placeholder treatment pending the outcome of a future proceeding on this issue.
- (4) The recovery mechanism currently in effect for the recovery by distribution facility owners of AESO customer contributions made prior to the date of this decision shall continue to be in effect until these costs are fully depreciated.

Dated on April 23, 2021.

Alberta Utilities Commission

(original signed by)

Carolyn Dahl Rees
Chair

(original signed by)

Kristi Sebalj
Commission Member

(original signed by)

Douglas A. Larder, QC
Acting Commission Member

Appendix 1 – Proceeding participants

Name of organization (abbreviation) Company name of counsel or representative
Alberta Electric System Operator (AESO)
Alberta Federation of Rural Electrification Associations (AFREA) Main Street Law LLP
AltaLink Management Ltd. (AltaLink) Borden, Ladner Gervais LLP
ATCO Electric Ltd.
Consumers' Coalition of Alberta (CCA)
ENMAX Power Corporation (ENMAX or EPC)
EPCOR Distribution & Transmission Inc. (EPCOR)
FortisAlberta Inc. (Fortis or FAI) Osler, Hoskin & Harcourt LLP
Lionstooth Energy
TransAlta Corporation

<p>Alberta Utilities Commission</p> <p>Commission panel</p> <ul style="list-style-type: none"> C. Dahl Rees, Chair K. Sebalj, Commission Member D.A. Larder, QC, Acting Commission Member <p>Commission staff</p> <ul style="list-style-type: none"> C. Wall (Commission counsel) D. Reese (Commission counsel) M. McJannet E. Deryabina C. Fuchshuber D. Mitchell O. Vasetsky
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Appendix 2 – Oral argument and reply argument – registered appearances

Name of organization (abbreviation) Name of counsel or representative
Alberta Electric System Operator (AESO) - Independent System Operator L. Mason K. Long
AltaLink Management Ltd.(AltaLink) R. Block, QC J. Hulecki
ATCO Utilities (ATCO Electric Ltd.) L. Keough
Consumers' Coalition of Alberta (CCA) J. Wachowich, QC
ENMAX Power Corporation D. Wood
EPCOR Distribution & Transmission Ltd. J. Liteplo
FortisAlberta Inc.(Fortis or FAI) M. Ignasiak J. Gormley

Alberta Utilities Commission
Commission panel C. Dahl Rees, Chair K. Sebalj, Commission Member D.A. Larder, QC, Acting Commission Member
Commission staff C. Wall (Commission counsel) D. Reese (Commission counsel) M. McJannet

Appendix 3 – Summary of Commission directions

This section is provided for the convenience of readers. In the event of any difference between the directions in this section and those in the main body of the decision, the wording in the main body of the decision shall prevail.

1. Considering the lumpy nature of the AESO customer contribution amounts paid by DFOs in any given year, and the potential for rate shock and rate volatility that could arise from changing the regulatory accounting treatment of AESO customer contribution amounts paid by DFOs to an expense item, the Commission directs DFOs to propose an accounting method that will recognize these DFO costs in a manner that allows the DFO to make the investment (earning no profit and suffering no loss) and allows for the recovery of the AESO customer contribution amounts from the DFOs customers on a go-forward basis..... paragraph 137
2. The Commission therefore directs the DFOs to file a proposal or proposals for a revised regulatory accounting treatment of their subsequent AESO customer contributions by May 31, 2021, to reflect the findings in the present decision. Consistent with the findings in this decision, any DFO proposal should exclude the profit element (i.e., return-on-equity component) and/or the use of WACC as part of the recovery of any incurred financing costs associated with AESO customer contribution amounts. DFOs should consider the following factors in the development of any proposal:
 - An evaluation of whether it is appropriate to recover AESO customer contributions as an expense item in the year they are made, similar to other operating expenses.
 - The use of a reserve account or similar mechanism if it is determined that DFO AESO customer contribution amounts are too large to be fully recovered in the year they are made. If a reserve account is required, the proposal(s) should consider the appropriate amortization period for recovery of the contribution amounts and of how the debt-only financing costs associated with the reserve account should be calculated and recovered.
 - A proposal for greater cost accountability for the customers that drive the SASR and the CIAC required for the new facilities connection.
 - The impact of the revised accounting treatment proposal(s) on each DFO.
 - Any risks associated with the proposal(s), the likelihood of the risks arising and the consequences of the risks should they occur...... paragraph 139
3. Given the Commission’s determination that there should be no change to the AESO customer contribution policy and that the inclusion of the AESO customer contributions in the DFO tariff is consistent with the legislative framework, a change to the DFO tariff recovery mechanism will be applied on a prospective basis to new AESO customer contributions, effective as of the date of this decision, consistent with the scope of issues for the proceeding included in the Commission’s November 10, 2020, notice of application. The DFOs are directed to track all subsequent AESO customer contribution payments as placeholders. The tariff recovery mechanism currently in effect for AESO

customer contributions made prior to the date of this decision shall continue to be in effect until these costs are fully depreciated. paragraph 142