



Capital Power Corporation

**Complaint Application Regarding FortisAlberta Inc.
Strathmore Area Interconnection Issues**

February 28, 2022

Alberta Utilities Commission

Decision 26510-D01-2022

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1 Decision summary

1. In this decision, the Alberta Utilities Commission makes a determination on a complaint (Complaint) filed by Capital Power Corporation against FortisAlberta Inc., with respect to whether certain charges to interconnect Capital Power’s Strathmore Solar Generation Project (Strathmore Project)¹ with Fortis’s electric distribution system were appropriately levied against Capital Power by Fortis.

2. Due to increased load on an AltaLink Management Ltd. transmission line from additional generation in the area, an underbuilt distribution line owned and operated by Fortis is expected to experience clearance violations with the transmission line. As part of its interconnection process, Fortis charged Capital Power \$1.33 million in interconnection charges for work to relocate portions of the underbuilt distribution line (the underbuild costs). In its complaint, Capital Power argued that under Fortis’s *Customer Terms and Conditions of Service for Electric Distribution Service* (T&Cs), it is not appropriate for Fortis to collect the underbuild costs from Capital Power.

3. For the following reasons, Capital Power’s complaint is dismissed.

2 Background

4. The Strathmore Project is a 40.5-megawatt (MW) solar generation power plant that will interconnect with Fortis’s distribution system through two distribution lines. These distribution lines connect to AltaLink’s Strathmore 151S Substation.² The Strathmore Project is registered in the Alberta Electric System Operator’s (AESO) project list as two separate projects: an 18-MW project (P2029) and a 22.5-MW project (P2030).³ Capital Power has received approval from the Commission to construct and operate the Strathmore Project,⁴ as well as an order to connect it to Fortis’s distribution system.⁵

¹ Within this decision, the name “Strathmore” appears in many contexts. Strathmore is:
(i) the name of the Town of Strathmore, a municipality under the *Municipal Government Act*,
(ii) used in the name of an Alberta Electric System Operator planning area, Area 45: Strathmore/Blackie,
(iii) the name of an AltaLink Management Ltd. transmission substation: Strathmore 151S,
(iv) the namesake of Capital Power’s Strathmore Solar Project power plant, and
(v) the namesake of Elemental Energy Renewable Inc.’s East Strathmore Solar Project, the approval for which is now held by “East Strathmore Solar Project Inc.” under Approval 27040-D02-2021.

² Exhibit 26510-X0002.01, Capital Power Complaint Application, PDF page 7, paragraph 10.

³ Exhibit 26510-X0002.01, Capital Power Complaint Application, PDF page 6, paragraph 9.

⁴ The original approval for this power plant was Approval 25346-D02-2020, Proceeding 25346, November 27, 2020. The most current approval at the time of this decision is Approval 27078-D02-2022, January 3, 2022.

⁵ Order 25346-D03-2020, November 27, 2020.

5. When a distribution-connected generation (DG) customer, such as Capital Power, interconnects with Fortis's distribution system, Fortis's T&Cs specify that the DG customer is required to pay certain interconnection costs. On June 19, 2020, Capital Power paid \$1,256,241.25 in costs quoted by Fortis to interconnect projects P2029 and P2030, which was to include both Fortis's and AltaLink's work to connect the project.⁶ These costs of interconnection are not in dispute.

Underbuild costs

6. The subject of this Complaint is an additional \$1.33 million in underbuild costs that were levied against Capital Power by Fortis in March 2021. The nature of the underbuild costs requires some elaboration.

7. The Strathmore 151S Substation connects to the Chestermere 419S Substation through AltaLink's Transmission Line 765L.⁷ At various segments along this transmission line, Fortis has distribution lines that are underbuilt on the transmission line⁸ (i.e., the distribution conductors are built directly below the transmission conductors on the same structures). The AltaLink transmission line's capacity is currently limited as a result of the separation between it and these underbuilt distribution lines.⁹ When loading on the transmission line increases, the temperature of its conductors likewise increases, causing the conductors to sag more. This reduces the clearance between the transmission and distribution conductors. The clearances that must be maintained between transmission and distribution conductors are dictated and governed by the Alberta Electric Utility Code.¹⁰

8. Interconnection of a DG project, as in this case, can require the project to proceed through the AESO's Behind the Fence process¹¹ in order to assess and address any modifications or upgrades required to the transmission system to interconnect the project.¹² Because the Strathmore Project is distribution-connected, Fortis made the request for altered transmission service from the AESO. As part of the AESO's process, a number of engineering studies may be performed, and the AESO may issue a functional specifications document that sets out "the technical specifications, requirements and approved variances related to the design, construction, development and commissioning"¹³ of the project. These specifications may be imposed on the distribution facility owner, transmission facility owner, or owner of a generating facility.

9. As part of its process, the AESO determined that the connection of additional generation in the Strathmore planning area, including the Strathmore Project, may cause the loading of

⁶ Exhibit 26510-X0002.01, Capital Power Complaint Application, PDF page 8, paragraph 12.

⁷ Exhibit 26510-X0002.01, Capital Power Complaint Application, PDF page 10, paragraph 17, figure 2.

⁸ Exhibit 26510-X0016, Fortis Letter to AUC re: Response to Capital Power Preliminary Motion, PDF pages 6-12.

⁹ Exhibit 26510-X0004, Appendix B - Functional Specifications for Projects P2029 and P2030, Section 5.5(3) Transmission Line Requirements, PDF page 3.

¹⁰ Exhibit 26510-X0047.02, FortisAlberta IR Responses to the AUC, FAI-AUC-2021JUL20-006, PDF page 19.

¹¹ From <https://www.aeso.ca/grid/connecting-to-the-grid/behind-the-fence-process/>: The Behind The Fence (BTF) Process is followed when a customer is making changes to its existing facilities that the AESO determines will not require the addition or alteration of facilities on Alberta's transmission system, but will require a data submission under Section 502.15 of the ISO Rules, *Reporting Facility Modelling Data*.

¹² Exhibit 26510-X0005, Appendix C - FortisAlberta Queue Practices and Related Documents, Phases 3 and 4: Detail Distribution Study and Transmission System Interconnection Study, PDF page 3.

¹³ Exhibit 26510-X0004, Appendix B - Functional Specifications for Projects P2029 and P2030, Section 1(1), PDF page 4.

Transmission Line 765L to exceed its present ratings.¹⁴ The AESO's most recent functional specifications for the Strathmore Project stipulate that if a 40-MW threshold (with respect to additional generation connecting in the AESO's Strathmore/Blackie planning area) is exceeded with certainty, the AESO will inform AltaLink that it will be required to increase the rating of Transmission Line 765L to at least 105 MVA¹⁵ from its present rating of 85 MVA.¹⁶

10. While the obligation to increase the transmission line's rating falls on AltaLink, collectively, Fortis and AltaLink determined that the optimal solution to increase the rating of Transmission Line 765L would be to relocate the underbuilt distribution lines off of the transmission line.^{17, 18} Removing the underbuilt distribution lines will allow for the conductors of Transmission Line 765L to operate at 105 MVA because the clearance violations that would occur as the conductors of Transmission Line 765L become hotter under higher load will have been resolved. The costs to remove and relocate these distribution lines are those that Capital Power disputed in its application.

Planned generation in the Strathmore/Blackie planning area

11. Other generation projects are currently under development in the Strathmore/Blackie planning area. Elemental Energy Renewables Inc. is developing a 20.1-MW power plant called the East Strathmore Project (P1932)¹⁹ and TIU Canada Inc. is developing a 17-MW power plant called the Gleichen Solar Project (P1984).^{20, 21}

12. While any one of these projects alone is not greater than 40 MW, and would not cause the ratings of Transmission Line 765L to be exceeded,^{22, 23} the combined effect of Capital Power's Strathmore Solar Project and Elemental Energy's East Strathmore Project may do so.²⁴

Fortis's queue and determination of cost responsibility

13. To manage DG applications for interconnection, Fortis employs a gated process with five phases: (1) Pre-Application Scoping; (2) High Level Study; (3) Detail Distribution Study; (4) Transmission System Interconnection Study; and (5) Final Interconnection Proposal. This process is more fully described in a document called the *Distribution Connected Generation DG Queue Management Practices* (DG queue practices),²⁵ which Fortis implemented to administer

¹⁴ Exhibit 26510-X0042, AESO-AUC-2021JULY20-001(i), PDF page 5.

¹⁵ Exhibit 26510-X0004, Capital Power Complaint Application, Appendix B - Functional Specifications for Projects P2029 and P2030, Section 5.5(3) Transmission Line Requirements, PDF page 3.

¹⁶ Exhibit 26510-X0042, AESO-AUC-2021JULY20-001(b), Normal Rating (MVA) – Summer, PDF page 3.

¹⁷ Exhibit 26510-X0047.02, FortisAlberta IR Responses to the AUC, FAI-AUC-2021JUL20-001(d), PDF page 3.

¹⁸ Exhibit 26510-X0029, AML-AUC-2021JULY21-002(a), PDF page 7.

¹⁹ Exhibit 26510-X0092, Elemental Energy - Final Argument, PDF page 6, paragraph 6. This project is also named by the AESO "P1932 FortisAlberta Namaka DER Solar" on the AESO's project list, Exhibit 26510-X0003, Excel row 68.

²⁰ Exhibit 26510-X0064, TIU Canada Ukraine Holdco Ltd. Statement of Intent to Participate.

²¹ Exhibit 26510-X0003, Appendix A - AESO Connection Project List (April 2021), Excel row 73.

²² Exhibit 26510-X0042, AESO-AUC-2021JUL20-001(c), PDF pages 3-4.

²³ In Exhibit 26510-X0042, AESO-AUC-2021JUL20-002(b)(iii) the AESO explained that the 0.5-MW threshold difference between the existing generation (Capital Power's Strathmore Solar Project of 40.5 MW) and the 40-MW threshold was "an immaterial amount in these circumstances..." PDF page 8.

²⁴ Exhibit 26510-X0042, AESO-AUC-2021JUL20-001(d)(ii), PDF page 4.

²⁵ Exhibit 26510-X0005, Appendix C - FortisAlberta Queue Practices and Related Documents.

the Substation Feeder Capacity Queue (DG queue). The document indicates that it applies to all DG proponent projects.

14. The DG queue is used to guide the allocation of upgrade costs in circumstances where the ability of existing infrastructure to accommodate the interconnection of DG projects at their specific requirements has been or will be used by earlier queue entrants. Fortis's DG queue is based on a "first come, first served" model.²⁶

15. At the end of Phase 2 of Fortis's interconnection process, a DG proponent's position in the DG queue is secured. In Phase 5, DG proponents are presented with a quotation package that requires execution and payment within 30 days. Failing this, the project is removed from the DG queue.²⁷

16. In November 2017, Capital Power completed Phase 2 and secured its queue position for its two projects.²⁸ These projects are second and third in Fortis's queue for the area (behind Elemental Energy's East Strathmore project).²⁹

Necessity of underbuild relocation and cost determination

17. The AESO is charged with planning the transmission system as well as directing its safe, reliable and economic operation.³⁰ As discussed above, the AESO may issue functional specifications that detail the technical specifications related to the design, construction, development and commissioning of any generation project. The most recent functional specifications for projects P2029 and P2030 stipulated that generation in excess of 40 MW would result in constraints on Transmission Line 765L. Therefore, when generation in excess of 40 MW was exceeded with certainty, the AESO would then inform the owner of the transmission facility (AltaLink) that it shall increase the rating of the transmission line to no less than 105 MVA.

18. In the context of the AESO, "with certainty" means that a given project has reached the AESO's project inclusion criteria. The AESO's project inclusion criteria is a "planning concept"³¹ used by the AESO to determine which projects in an area are included in specific technical studies.³² On May 11, 2021, the AESO informed AltaLink that additional generation connecting in the Strathmore/Blackie planning area had exceeded the 40-MW threshold with certainty, and that the rating of Transmission Line 765L needed to be increased.³³ This communication occurred as a result of Elemental Energy's East Strathmore Project meeting the AESO's project inclusion criteria. At that point in time, Capital Power's Strathmore Project had already met the AESO's project inclusion criteria,³⁴ but TIU's Gleichen Solar Project had not.³⁵

²⁶ Exhibit 26510-X0047.02, Fortis IR Responses to the AUC, FAI-AUC-2021JUL20-003(a), PDF page 19.

²⁷ Exhibit 26510-X0005, Appendix C - FortisAlberta Queue Practices and Related Documents, PDF page 3.

²⁸ Exhibit 26510-X0002.01, Capital Power Complaint Application, PDF page 29, paragraphs 88-89.

²⁹ Exhibit 26510-X0094, Written Argument of FortisAlberta Inc, PDF page 10, paragraph 22.

³⁰ See, inter alia, Electric Utilities Act, Section 17(h) and Electric Utilities Act, Section 20(e).

³¹ Exhibit 26510-X0042, AESO-AUC-2021JUL20-005(a), PDF page 16.

³² Exhibit 26510-X0043, Attachment AESO-AUC-2021JUL20-002 (a), AESO Information Document ID #2018-018T, Section 10 Project Inclusion Criteria, PDF page 8.

³³ Exhibit 26510-X0044, Attachment AESO-AUC-2021JUL20-002 (b), PDF pages 1 and 4.

³⁴ Exhibit 26510-X0044, Attachment AESO-AUC-2021JUL20-002 (b), PDF page 4.

³⁵ Exhibit 26510-X0042, AESO-AUC-2021JUL20-001(f), PDF page 4.

19. Whereas the AESO has its own criteria for “with certainty” and an associated order in which market participants met this criteria, Fortis uses a different method to determine how to allocate costs: its DG queue. With regard to the AESO’s project inclusion criteria, Capital Power reached this threshold first, and it was Elemental Energy’s project that pushed the generation above the threshold of 40 MW in the area “with certainty” when its project met the project inclusion criteria. However, in Fortis’s DG queue, Elemental Energy was the first to secure its position in the DG queue, before Capital Power. This is the method by which Fortis opted to allocate the costs for the relocation of the underbuild on Transmission Line 765L to Capital Power.

20. Fortis considered that the underbuild costs qualify as interconnection costs under its T&Cs, and that Capital Power is responsible for paying the entirety of the underbuild costs due to its position in Fortis’s DG queue.³⁶ Fortis estimated these costs would total \$1.33 million, and provided Capital Power with a quotation package for the costs on March 26, 2021.³⁷ This occurred in advance of the AESO confirming the need to increase the capacity of Transmission Line 765L.

3 Summary of Complaint and procedural background

21. Capital Power’s primary argument in its Complaint was that the underbuild costs did not qualify as “interconnection charges”³⁸ under Fortis’s T&Cs. Capital Power therefore sought an order directing Fortis to retract the quotation package and invoice it had presented to Capital Power for the underbuild costs, and it further requested that any payment of the underbuild costs by Capital Power to Fortis be refunded, along with interest.

22. Capital Power made two alternative requests in the event the Commission concluded that the underbuild costs in fact qualified as “interconnection charges.”

23. The first was for an order allocating the underbuild costs based on the AESO’s project inclusion criteria rather than Fortis’s DG queue. Capital Power indicated that such an order would result in the underbuild costs being allocated to Elemental Energy’s East Strathmore project, because it was the last project to satisfy the AESO’s project inclusion criteria and caused Transmission Line 765L to exceed, with certainty, the threshold identified in the AESO’s functional specifications for projects P2029, P2030, and P1932.³⁹ In that regard, Capital Power requested an order from the Commission that Fortis’s DG queue practices were not applicable to Fortis’s allocation of the underbuild costs among the Strathmore generation projects.

24. The second alternative request was for an order directing Fortis to allocate the underbuild costs among all DG project proponents in the Strathmore area, which would include the East Strathmore Project and the Gleichen Solar Project, based on each project’s generating capacity.⁴⁰

³⁶ Exhibit 26510-X0002.01, Capital Power Complaint Application, PDF page 13, paragraph 30.

³⁷ Exhibit 26510-X0016, Fortis Letter to AUC re: Response to Capital Power Preliminary Motion, PDF page 3.

³⁸ Fortis’s Terms and Conditions Section 12.6.1 define “Interconnection Charges” to be the same as interconnection costs.

³⁹ For P2029, the March 8, 2021 functional specifications were Version V2 (Exhibit 26510-X0004, PDF page 1); For P2030, the March 8, 2021 functional specifications were Version V3 (Exhibit 26510-X0004, PDF page 21); For P1932, the 40-MW limit was imposed in Version V2, April 7, 2021 (Exhibit 26510-X0071).

⁴⁰ Exhibit 26510-X0002.01, Capital Power Complaint Application, PDF pages 5-6, paragraph 7.

25. Along with its Complaint, Capital Power filed a motion requesting that the Commission order any payment to Fortis of the disputed underbuild costs be made interim and subject to adjustment on final determination. The Commission granted this motion on June 10, 2021,⁴¹ indicating, among other things, that granting the interim relief would allow Capital Power to proceed with its project while at the same time allowing Fortis to obtain the necessary funds to proceed with the underbuild work.

4 Issues

26. In dismissing Capital Power’s Complaint, the Commission has considered two issues.

27. The first is whether the costs to remove the underbuild on Transmission Line 765L qualify as “interconnection costs” as described in Fortis’s T&Cs. The Commission has determined that the answer to that question is “yes.”

28. The second issue, being Capital Power’s first alternative argument, is whether Fortis could rely on its DG queue to charge the underbuild costs to Capital Power. The Commission has concluded that Fortis was entitled, in the circumstances, to rely on its DG queue in charging Capital Power the underbuild costs.

29. Having thus decided the first and second issues, there is no need to address Capital Power’s second alternative argument, in which it sought an allocation of underbuild costs among the various Strathmore generation projects. The Commission refrains from addressing this issue.

30. In reaching the determinations contained within this decision, the Commission has considered all relevant materials comprising the record of this proceeding. Accordingly, references in this decision to specific parts of the record 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.

4.1 Underbuild costs qualify as “interconnection charges” under Fortis’s T&Cs

31. The issue of whether the underbuild costs on Transmission Line 765L qualify as “Interconnection Charges” requires an assessment of Fortis’s T&Cs.

32. The Commission's role in a complaint proceeding regarding T&Cs is limited to ensuring that the T&Cs are being interpreted and applied in a manner consistent with accepted principles of statutory interpretation.

33. The Commission has previously held that the T&Cs between a public utility and its customers are “legally imposed regulations that bind the utility to provide a service at just and reasonable rates to all who require and demand them.”⁴² The desired approach to interpreting the T&Cs should therefore take into account principles of statutory interpretation, reading the words of an enactment “in their entire context and in their grammatical and ordinary sense

⁴¹ Exhibit 26510-X0019, AUC Ruling - Capital Power complaint - Strathmore area interconnection issues.

⁴² See Decision 22796-D01-2018 at para. 35; citing Decision 2011-383.

harmoniously with the scheme of the Act...”.⁴³ The proper interpretation of the relevant provisions should take into account the unique circumstances at hand, in the context of the statutory framework under which Fortis’s tariff was approved.⁴⁴

34. The following portions of Fortis’s T&Cs relate to interconnection charges:⁴⁵

12.6.1 Interconnection Charges

The DG Customer will be required to pay all incremental interconnection costs (“Interconnection Charges”) as determined by FortisAlberta, to allow the DG Customer to make use of the electric distribution system, including:

- (a) Interconnection Facilities Costs, as determined by FortisAlberta;
- (b) Prepaid operation & maintenance charges as set out in Section 12.6.2;
- (c) Transmission Costs for any transmission related costs associated with the interconnection, as determined and assessed by the Independent System Operator or a Transmission Facility Owner and flowed through to FortisAlberta; and
- (d) Application fees associated with performing engineering estimates, planning, operating or protection studies or any additional or routine studies, modeling and testing required by the Independent System Operator.

...

The DG Customer may be required to pay further Interconnection Facilities Costs or Transmission Costs at a later date, for modifications or upgrades to the electric distribution system or transmission system that would not have otherwise been required if the generator were not interconnected to the electric distribution system, including the replacement or repair costs of assets at the end of their useful life.

35. Section 2.1 of the T&Cs defines “Interconnection Charges,” “Interconnection Facilities” and “Interconnection Facilities Costs” in the following way:⁴⁶

“Interconnection Charges” has the meaning given such term in, and is determined in accordance with, Section 12.6.1;

“Interconnection Facilities” for DG Customers means all incremental Facilities required to interconnect the circuits of the DG Customer’s generating facilities to FortisAlberta’s Facilities, and all modifications to FortisAlberta Facilities required for interconnection which may include, without limitation, poles, lines, substations, service leads, and protective and metering equipment;

“Interconnection Facilities Costs” are the capital costs as estimated by FortisAlberta of the DG Customer’s Interconnection Facilities

⁴³ See EA Driedger, *Construction of Statutes*, (2nd ed 1983) at p 87 as cited in *Rizzo & Rizzo Shoes Ltd (Re)*, [1999] 1 SCR 27 at para 21, 154 DLR (4th) 193.

⁴⁴ Fortis’s T&Cs, including the Interconnection Charges provisions, were originally approved in Decision 2006-063 by the predecessor to the Commission, the Alberta Energy and Utilities Board.

⁴⁵ Decision 25843-D01-2020, FortisAlberta Inc., 2021 Annual Performance-Based Regulation Rate Adjustment, December 18, 2020, Appendix 5 - 2021 customer terms and condition, PDF pages 59-60.

⁴⁶ Decision 25843-D01-2020, Appendix 5 - 2021 customer terms and condition, PDF page 10.

36. Capital Power argued that there is no basis upon which Fortis can charge the underbuild costs to Capital Power because they are not “Interconnection Charges” as defined in Fortis’s T&Cs. More specifically, it stated that the underbuild costs are not charges that would “allow the DG Customer to make use of the electric distribution system,” which is a requirement of Section 12.6.1. To the contrary, Capital Power’s position was that the underbuild costs are required to relieve a longstanding transmission constraint. The intervening DG proponents agreed with Capital Power that the underbuild costs are not considered “Interconnection Charges” under the T&Cs.

37. The Commission disagrees with Capital Power’s interpretation of Section 12.6.1. In particular, the scope of “interconnection charges,” on a plain reading, is inclusive of “all incremental interconnection costs...to allow the DG Customer to make use of the electric distribution system” [emphasis added]. The broad wording of this provision captures all distribution costs, including modifications required for interconnection, so long as such costs are necessary to allow the DG customer to make use of the distribution system. In the circumstances of this case, the Commission agrees with Fortis that use of the electric distribution system is inextricably linked with access to the transmission system, where DG projects cannot connect to Fortis’s distribution system unless adequate capacity exists on the transmission system.

38. Capital Power further argued that pursuant to the T&Cs, there is no basis upon which Fortis can claim (as it did in its information responses) that the work is *necessary* to enable Capital Power’s interconnection. In this regard, Capital Power pointed to the definition of “Interconnection Facilities,” which indicates that such facilities must be “required” in order to constitute “interconnection charges.” Capital Power pointed out that the AESO indicated the threshold capacity of Transmission Line 765L will only be exceeded “with certainty” once the project *following* Capital Power’s projects is energized.

39. “Interconnection Facilities” under Fortis’s T&Cs means: “all incremental Facilities required to interconnect the circuits of the DG Customer’s generating facilities to [Fortis’s] Facilities” **and** “all modifications to [Fortis’s Facilities] required for interconnection which may include, without limitation, poles, lines, substations, service leads, and protective and metering equipment.” In the Commission’s view, the underbuild costs plainly fit within the second component of this definition, which specifically contemplates the types of facilities that require “modification” in this case.

40. The Commission accepts that the word “required” within the definition of “Interconnection Facilities” includes the underbuild costs in this case. Pursuant to Section 12.6.1(a), “Interconnection Facilities Costs” are to be “as determined by [Fortis].” In other words, Fortis, rather than any other party, has the discretion under Section 12.6.1 to determine which interconnection facilities costs are required to be paid by its DG customers. As part of that assessment, Fortis utilizes its DG queue, which applies to all DG proponent projects. Further, the Commission finds Fortis’s determination that the underbuild work is a “required” modification is supported under the definition of “Interconnection Facilities.” This is because an authority (the AESO) ultimately determined that the capacity of Transmission Line 765L must be increased to facilitate the interconnection of generation projects in the Strathmore area, and the optimal method to increase that capacity is to make modifications to Fortis’s distribution lines.

41. In conclusion, the Commission finds that the requirement to remove the underbuilt distribution line and the associated underbuild costs are contemplated within the language of Fortis's T&Cs. For that reason, the underbuild costs qualify as interconnection charges, and therefore the first ground of Capital Power's Complaint is dismissed.

4.2 Fortis's DG queue practices determine the allocation of the underbuild costs

42. Fortis determined Capital Power's cost responsibility for the underbuild costs in accordance with its DG queue practices.

43. Capital Power argued that Fortis's DG queue is unjust, unreasonable, and unduly or arbitrarily discriminatory, in breach of its obligations under the *Electric Utilities Act*,⁴⁷ mainly because it fixes a DG proponent's position in the queue far in advance of that proponent's project becoming certain to proceed. Essentially, Capital Power's argument was that the DG queue practices arbitrarily assign the costs of a system upgrade to a certain project even though energization of that project may not ultimately drive the requirement for the upgrade. At the same time, a project that secured its position in Fortis's DG queue earlier may avoid any cost responsibility for an upgrade more properly attributable to it. Capital Power's position was that the best available method to allocate and assign the underbuild costs would be the order in which projects met the AESO's project inclusion criteria. In Capital Power's view, using the AESO's project inclusion criteria to allocate and assign the costs for the underbuild work would best reflect cost causation and avoid undue or arbitrary discrimination between competing projects.⁴⁸

44. For the following reasons, the Commission finds that Fortis is entitled to rely on its DG queue to allocate and assign the underbuild costs in the present circumstances.

45. First, Section 12.6.1 of the T&Cs, which were first approved by the Alberta Energy and Utilities Board (the predecessor to the Commission) in Decision 2006-063, supports Fortis's practice to charge the underbuild costs to Capital Power in this case. Under Section 12.6.1, "all incremental interconnection costs...**as determined by [Fortis]**" [emphasis added] may be charged by Fortis to a DG customer. Section 12.6.1(a) of Fortis's T&Cs again emphasises that Fortis determines what constitute incremental "Interconnection Facilities Costs." Earlier in this decision, the Commission concluded that Fortis' T&Cs reasonably entitled Fortis to charge the underbuild costs to Capital Power under the very same provisions that expressly give Fortis the discretion and authority to determine such costs. The DG queue, and associated processes, were established by Fortis in order to provide an "an orderly, fair and transparent manner" by which Fortis can assess certain interconnection costs.⁴⁹

46. Second, the DG queue practices are based on a "first come, first served" model where the DG proponent secures its position in the DG queue once high-level study fees are paid. Fortis indicated that, should the interconnection of a subsequent DG proponent then necessitate upgrades to the distribution or transmission system "after consideration of the requirements of the earlier queue entrant,"⁵⁰ the cost responsibility will be borne by the subsequent DG proponent. The Commission takes this to mean that any necessary costs to interconnect which

⁴⁷ Capital Power references ss.105(1)(c), 105(1)(k), and 127(c) of the EUA in particular (Exhibit 26510-X0097.01, Reply Argument of Capital Power, PDF pages 6-7, paragraph 23; Exhibit 26510-X0085, Argument of Capital Power, PDF page 21, paragraph 59).

⁴⁸ Exhibit 26510-X0085, Argument of Capital Power, PDF page 22, paragraph 60.

⁴⁹ Exhibit 26510-X0047.02, FortisAlberta IR Responses to the AUC, FAI-AUC-2021JUL20-003(a), PDF page 7.

⁵⁰ Exhibit 26510-X0094, Written Argument of FortisAlberta Inc., PDF page 19, paragraph 48.

may arise after an original DG proponent has paid its high-level study fees will be borne by the subsequent DG proponent.

47. The Commission accepts Fortis's position that the practices it has implemented with respect to its DG queue are not unduly or arbitrarily discriminatory, in the sense that they are available to, and known by, all DG proponents and therefore contain an element of transparency. As noted by Fortis, pursuant to its DG queue practices each DG proponent is required to take certain steps in each interconnection phase within the timeframes outlined in the practices, and there can be no significant scope changes in a project for the DG proponent to maintain its position in the queue. Fortis noted that the requirements within its practices bring discipline to the interconnection process and ensure that project proponents are committed to both their projects and advancing them in a timely fashion.

48. With that said, there is no question that there is an element of arbitrariness in the practice of securing a DG proponent's position in the queue at the time when high-level study fees for the project are paid. Fortis in fact acknowledged that, based on its criteria, the securing of a DG proponent's position is early in the interconnection process. However, the Commission is not persuaded that the replacement of Fortis's DG queue with the AESO's projection inclusion criteria, as Capital Power requests, would result in less arbitrariness. As stated by Fortis: "the party that ultimately makes use of the system's remaining capacity is technically not known until energization."⁵¹ Moreover, it is Fortis, not the AESO, that is responsible for allocating the applicable interconnection charges. This is not to imply that Fortis's DG queue practices are necessarily the "best" method available to allocate costs. Rather, as the DFO providing service to DG proponents and under its currently approved T&Cs, Fortis is entitled to develop and implement its own queue practices provided they are transparent and are not unjust, unreasonable, or unduly arbitrary or discriminatory.

49. In the Commission's view, the allocation of underbuild costs to Capital Power is consistent with the application of Fortis's DG queue, the mechanics and implications of which were known or should reasonably have been known to all DG proponents seeking to connect in the area, including Capital Power. For this reason, Fortis's reliance on its queue and its application in the circumstances of determining and allocating the underbuild costs were neither unduly arbitrary nor discriminatory.

50. For future projects, the Commission encourages Fortis to consider incorporating into its queue practices a mechanism that specifically contemplates the potential sharing of information and any interconnection costs amongst DG proponents proposing to interconnect in the same area within a similar timeframe, where the benefits associated with any such costs will be enjoyed by parties other than the specific party that triggers them. There may also be room for better coordination with the AESO when a distribution solution to a transmission constraint is identified as a result of one or more DG proponents seeking interconnection.

⁵¹ Exhibit 26510-X0094, Written Argument of FortisAlberta Inc., PDF page 19, paragraph 48.

5 Order

51. It is hereby ordered that:

- (1) Capital Power's Complaint is dismissed;
- (2) With respect to any interim underbuild costs invoiced by Fortis and paid by Capital Power as referenced in the Commission's ruling of June 10, 2021, Fortis shall make any necessary adjustments or true-ups relating to these costs already invoiced; and
- (3) Any outstanding underbuild costs, including any necessary adjustments or true-ups relating to those costs, owing to Fortis (or still to be invoiced by Fortis) to Capital Power for the underbuild work shall be paid by Capital Power (or refunded to Capital Power, as the case may be) on a final basis.

Dated on February 28, 2022.

Alberta Utilities Commission

(original signed by)

Carolyn Dahl Rees
Chair

(original signed by)

Kristi Sebalj
Commission Member