



Alberta Electric System Operator

**Application for Approval of Amended
Section 306.7 of the ISO Rules**

February 15, 2024

Alberta Utilities Commission

Decision 28081-D01-2024

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Section 306.7 of the ISO Rules

Application 28081-A001

Proceeding 28081

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1 Introduction

1. On March 7, 2023, the Alberta Electric System Operator (AESO)¹ applied² to the Alberta Utilities Commission requesting approval of proposed amendments to Section 306.7 of the independent system operator (ISO) rules, *Mothball Outage Reporting*, as well as consequential amendments to Section 2.4 of the ISO tariff and the definitions of “mothball outage” and “supply transmission service” in the *Consolidated Authoritative Document Glossary* (Glossary).

2. The current Section 306.7 of the ISO rules enables pool participants³ to place source assets⁴ on mothball outages, which are defined in the Glossary as “a reduction in the available capability of a source asset which is anticipated and occurs as a result of deliberate manual action and is not a planned outage.”⁵ More specifically, Section 306.7 permits the temporary reduction, in whole or in part, of the available capability of a source asset when forecasted economic conditions indicate a low likelihood of the source asset’s ability to recover its forecast avoidable costs.⁶

3. While in effect, mothball outages, under both the existing and proposed amended Section 306.7, do not affect the supply transmission service (STS) contract capacities associated with the units and, as a result, mothballed units may be returned to service on short notice (i.e., three months). Recognizing this, it is the AESO’s practice to include them in connection studies, which may result in the identification of transmission congestion that would not otherwise have occurred but for the potential return to service of a mothballed unit.

4. New entrants wishing to gain access to the transmission system must participate in the AESO’s new cluster-based connection process wherein applications for connection by a certain future year are grouped into a cohort and considered simultaneously. That process begins with an eight-month application window followed by a nine-month assessment period. If sufficient transmission capacity is available, applicants are then granted access without the need for further measures. If transmission congestion concerns are identified, then depending on the nature and severity of the transmission shortfall, access for the new entrant may be made subject to

¹ The ISO is established under Section 7(1) of the *Electric Utilities Act* and operates under the trade name AESO. For the purposes of this decision, AESO and ISO are used interchangeably.

² Application 28081-A001.

³ The Commission understands that, when the AESO used the term “supplier,” it intended to mean “pool participant.” As “pool participant” is the term used in Section 306.7, it will be used in this decision.

⁴ “Source asset,” a defined term in the Glossary, is used in the current and proposed amended Section 306.7. Noting that a source asset can refer to one or more “generating units,” the Commission generally uses the terms interchangeably in the decision.

⁵ <https://aeso.ca/assets/CADG-LARA/Consolidated-Authoritative-Document-Glossary-2023-07-20.pdf>, PDF page 25, “mothball outage.”

⁶ “Avoidable costs” includes costs that would not be incurred if a unit was removed from service. In addition to fuel and variable O&M costs, they may include other costs such as fixed O&M and labour.

installing a remedial action scheme (RAS),⁷ or they may face a high likelihood of being constrained under the ISO's Real Time Transmission Constraint Management protocol until transmission enhancements are completed.

5. Because new entrants wishing to connect in a congested area may face these additional costs and operating constraints, the presence of mothballed units may dissuade them from locating in areas that would otherwise have had sufficient transmission capacity to accommodate them.⁸ In the AESO's view, the presence of mothballed units in certain areas may act as a barrier to market entry and potentially result in unnecessary transmission additions.

6. If a pool participant retires a generating unit, the STS contract associated with the unit would be terminated. Should the participant then wish to return the unit to service, they would be required to participate in the connection process as a new entrant. The ability to take a mothball outage permits pool participants to temporarily reduce the available capability of a source asset and then return it to service without needing to proceed through the AESO's connection process, as is required for a new unit.

7. Under the existing rule, mothball outages may last for up to 24 months, with the ability to extend the outage further if agreed to by the AESO in writing. The AESO stated in its application that the potential for an extended mothball outage, combined with the mothballed unit's retention of STS contract capacity under the existing rule, is problematic as it may result in: (i) inefficient utilization of the transmission system and unnecessary costs to new entrants and ratepayers; (ii) lower-quality connection alternatives for new connection projects; or (iii) additional time and cost to rework the Needs Identification Documents.

8. In its application, the AESO proposed a number of substantive amendments to the existing Section 306.7, including matters related to maximum mothball outage duration, mothball outage notification, transmission access, subsequent mothball outages, mothball outage cancellation, and reporting of mothball outages. The application also included minor consequential amendments to the ISO tariff and the Glossary.

9. For the reasons that follow, the Commission denies the AESO's application because it is not satisfied that the AESO's proposed amendments meet the criteria specified in Section 20.21(2) of the *Electric Utilities Act* for the approval of an ISO rule. Specifically, the Commission is not satisfied that the AESO's proposed amended rule:

- (a) is not technically deficient,
- (b) supports the fair, efficient and openly competitive operation of the electricity market, and;
- (c) is in the public interest.

⁷ A Remedial Action Scheme is an automated scheme that detects unacceptable power system conditions and rapidly takes prescribed corrective actions should they occur. Because RAS can operate instantaneously, their presence can allow the system to be loaded to higher transfer levels than would otherwise be prudent. See <https://aeso.ca/assets/CADG-LARA/Consolidated-Authoritative-Document-Glossary-2023-07-20.pdf>, PDF page 33, "remedial action scheme" for the comprehensive definition as used by the AESO.

⁸ Units that actively operate in the market are also included in connection studies and thus may also affect new entry and the need for transmission enhancements. In either case, the Commission does not consider that inclusion in connection studies equates to granting explicit or implicit transmission rights.

2 Mothball outage rule background

10. The Alberta electricity pool price varies continuously and units are dispatched on and off by the AESO accordingly. Some generating units are relatively inflexible, requiring significant time to start, and may incur significant startup costs which must be recovered during the course of their subsequent operation if the decision to start is to be profitable. Pool participants may therefore not wish to start some offline units even if doing so would seemingly appear profitable in the short term. Because that preference may depend on forecast rather than current market conditions and cannot be adequately conveyed through energy market offers, those pool participants may wish to temporarily remove those units from the normal operation of the market until economic conditions improve. Mechanisms available to participants wishing to do so include offering them as Long-Lead-Time (LLT) units, mothballing them or outright retiring them.

11. Generating units that require more than one hour to start are referred to as LLT units and once taken offline must be started in order to become eligible to receive energy market dispatches. The decision to start the unit is normally made by the pool participant, with the result that LLT units can be effectively removed from the normal operation of the market until the pool participant chooses to restart them (in the absence of a directive to return to service from the AESO, which may be issued in rare circumstances to address system reliability concerns). The STS contract capacity of a LLT unit is unaffected (i.e., it is not reduced) while it remains offline. Section 202.4 of the ISO rules governs the treatment of LLT units and requires that a LLT unit must be capable of returning to service within 36 hours of receiving a directive to do so from the AESO. Maintaining that level of readiness imposes some additional costs on pool participants with offline LLT units.

12. Pool participants can retire generating units subject only to providing notice to the AESO and the AUC. As noted above, the STS contract associated with a retired unit would then be terminated.

13. In its application on Proceeding 21672⁹ (in 2016), which concerned the original approval of Section 306.7, the AESO stated that several market participants had expressed their intention to take a mothball outage in accordance with either ISO rules Section 202.4, *Managing Long Lead Time Assets*; Section 306.5, *Generation Outage Reporting and Coordination*; or Section 203.3, *Energy Restatements*. At the time, the AESO noted that, while those existing sections of the ISO rules did not specifically preclude mothball outages, they were not intended to enable such outages.

14. Recognizing the above scenario as indicative of an urgent gap in the existing ISO rules, the AESO explained at the time that the purpose of Section 306.7 was to “ensure that mothball outages are taken in a transparent manner, in alignment with the requirements of the *F[air.] E[fficient and] O[pen] C[ompetition] Regulation*, and to ensure that the AESO has the ability to address issues related to supply adequacy.”¹⁰

⁹ Application 21672-A001.

¹⁰ Exhibit 21672-X0001, Expedited Notice of Filing – Mothball Outage Changes, PDF page 1.

15. Section 306.7 of the ISO rules was therefore originally implemented as an expedited rule in June 2016, under former Section 20.6 of the *Electric Utilities Act*.¹¹ The AESO stated that it filed the rule to address pool participant concerns that forward prices at the time were making it uneconomic for certain generating units to continue operating in the energy-only market.¹² There was no consultation requirement under either the expedited rule provisions of the *Electric Utilities Act* or AUC Rule 017: *Procedures and Process for Development of ISO Rules and Filing of ISO Rules with the Alberta Utilities Commission* that were in force at that time.

16. Nevertheless, because Section 306.7 was implemented on an expedited basis, the AESO committed at that time to initiating a comprehensive review of mothball outages, including stakeholder engagement and a full consultation process. The AESO subsequently initiated a review of the mothball outages in July 2016, and then began consultations with stakeholders on Section 306.7.¹³

17. However, those consultation efforts were put on hold in late 2016, when the Government of Alberta announced its desire to restructure Alberta's electricity market from an energy-only market to an energy and capacity market structure. As a result, further consultation on the mothball rule was put on hold.

18. In 2018, the Market Surveillance Administrator (MSA) submitted a complaint to the Commission about Section 306.7. In that proceeding,¹⁴ the MSA asserted that Section 306.7 as it was then drafted did not support the fair, efficient, and openly competitive (FEOC) operation of the market, was not in the public interest, and may have an adverse effect on the structure and performance of the market.¹⁵ The MSA's complaint resulted in a change to Section 306.7, by including a corporate attestation provision about the reasons for the mothball outage notice.¹⁶ The rule has remained unchanged since the outcome of that proceeding.

19. After the Government of Alberta announced the cancellation of Alberta's transition to an energy and capacity market on July 24, 2019, the AESO re-initiated the mothball rule review in October 2020.¹⁷ That consultation process continued until December 2022, when the AESO

¹¹ Note that under the version of the *Electric Utilities Act* applicable at the time Section 306.7 was implemented, an expedited rule filed by the AESO under Section 20.6(3) simply took effect "on the later of the day on which it is filed and the day specified in the ISO rule". The current version of Section 20.6 requires an order of the Commission to approve ISO rules and amendments to them.

¹² Exhibit 28081-X0001.01, Application for Proposed Amended Section 306.7 and Consequential Amendments, PDF page 4, paragraph 7.

¹³ Exhibit 28081-X0001.01, Application for Proposed Amended Section 306.7 and Consequential Amendments, PDF page 9, paragraph 35.

¹⁴ Proceeding 23427.

¹⁵ Proceeding 23427-X0001, Complaint re Section 306.7 of the ISO Rules, PDF page 2, paragraph 5.

¹⁶ Specifically, Proceeding 23427 led to the requirement that "a pool participant who has provided notification to the AESO of a mothball outage or an extension to the duration or increase in the MW of the mothball outage to provide an attestation to the AESO from a corporate officer that forecast market prices and market conditions, based on its reasonable assessment, are insufficient to recover avoidable costs for the source asset for the duration of the mothball outage, and that the mothball outage will be cancelled if, based on its reasonable assessment, forecast market prices and market conditions become sufficient to recover avoidable costs for the source asset for the remainder of the mothball outage." (Exhibit 23427-X0027)

¹⁷ Exhibit 28081-X0001.01, Application for Proposed Amended Section 306.7 and Consequential Amendments, PDF page 9, paragraphs 40 and 41.

presented its final version of the proposed amended mothball rule to stakeholders, which resulted in the present application.

3 Proceeding background

20. In its application, the AESO proposed a number of substantive amendments to the existing Rule 306.7, summarized by the AESO as follows:

- (i) Maximum Duration: the maximum duration of a mothball outage;
- (ii) Mothball Outage Notification: the notification that a unit must provide before taking a mothball outage;
- (iii) Transmission Access: the impact of mothball outages on the efficient transmission access and usage;
- (iv) Subsequent Outages: the mandatory minimum time required between mothball outages;
- (v) Mothball Outage Cancellation: the minimum required timeline in cases where a pool participant cancels a mothball outage and where the AESO directs the mothballed unit to return to service; and
- (vi) Reporting: reporting mothball outages to provide transparency and notification to the market.

The application also included minor consequential amendments to Section 2.4 of the ISO tariff and the definitions of “mothball outage” and “supply transmission service” in the Glossary.

21. On March 9, 2023, the Commission issued a notice of application and requested the submission of statements of intent to participate (SIPs) by March 23, 2023. Four SIPs were received from Suncor Energy Inc. (Suncor), TransAlta Corporation (TransAlta), TransCanada Energy Ltd. (TCE) and Capital Power Corporation (Capital Power).

22. Suncor, TransAlta, and TCE all submitted that the AESO did not fulfill its previous commitment to consult on Section 306.7 in a fulsome manner. The argument was essentially that the AESO never consulted on the original Section 306.7, which inappropriately limited the scope of the current consultation to the proposed amendments. The various remedies proposed by some of the parties with respect to consultation were that the AESO’s application should be withdrawn, summarily dismissed, or rejected by the Commission.

23. Suncor, TransAlta, and TCE were also concerned about transmission access treatment under the AESO’s amended rule, whereby the AESO proposed to reduce the STS contract capacity of a fully mothballed unit to zero megawatts (MW) when a new connection project planned in the area would cause transmission congestion (assuming that the owner of the mothballed unit did not notify the AESO that it was returning to service at that time). As provided in the proposed amendments to Section 306.7, this reduction to zero MW would occur even when a lesser amount of STS contract capacity reduction would alleviate the congestion. TransAlta and TCE were further concerned about the lack of clarity regarding the application of the AESO’s new cluster-based connection process to mothballed units whose STS contract

capacity has been reduced to zero MW. In that respect, TransAlta indicated that the AESO's new connection process could result in the connection of a previously mothballed unit taking more than nine months, which, unlike the existing process, would impose significant delay on the return of a mothballed unit.

24. Capital Power stated that it did not oppose the AESO's application and said it intended to outline its experience with the consultation that had been undertaken.

25. In a letter issued on June 19, 2023, the Commission granted full participation to all four parties who had submitted SIPs. Despite the parties' requests that the AESO's application should be withdrawn or summarily dismissed, the Commission ruled that it would hear the AESO's application, which it determined was properly before it. The Commission limited the scope of the proceeding to the proposed rule amendments, which comprise the subject of the current application, rather than a review of the entirety of Section 306.7, which came into effect on June 7, 2016, under Section 20.6(1) of a previous version of the *Electric Utilities Act*. The Commission also established a preliminary process schedule with information requests (IRs) and the filing of intervenor evidence.¹⁸

26. The Commission issued two rounds of IRs to the AESO on June 19, 2023 and August 18, 2023, with the AESO providing its responses on July 4, 2023 and September 1, 2023, respectively.

27. None of the intervenors issued IRs to the AESO or filed evidence on the proceeding record. Of the parties who submitted SIPs, only TransAlta elected to participate in oral argument, which was heard on November 15, 2023. Suncor, TCE and Capital Power indicated that they did not intend to participate further in the proceeding given that the scope of the proceeding was limited to the AESO's proposed amendments to Section 306.7. Only to the extent that these parties' concerns overlapped with TransAlta's will they be addressed in the discussion below.

28. The Commission considers that the record of this proceeding closed on November 15, 2023.

29. The Commission reviewed the record for this proceeding in coming to this decision; lack of reference to a matter addressed in evidence or argument does not mean that it was not considered.

4 Legislative and regulatory framework

30. Under Section 20.2(1) of the *Electric Utilities Act*, the AESO must apply to the Commission for approval of a proposed ISO rule.

31. After considering an ISO rule, in accordance with Section 20.21(1) of the *Electric Utilities Act*, the Commission may, by order, approve the ISO rule, direct the AESO to revise the ISO rule or refuse to approve the ISO rule.

¹⁸ Exhibit 28081-X0019, Process letter – participation, scope of proceeding and process schedule.

32. In accordance with Section 20.21(2) of the *Electric Utilities Act*, the Commission may approve an ISO rule filed under Section 20.2 only if the Commission is satisfied:

- (a) that the ISO rule
 - (i) is not technically deficient,
 - (ii) supports the fair, efficient and openly competitive operation of the market to which it relates, and
 - (iii) is in the public interest,
- [...]
- and
- (c) that the Independent System Operator, in developing the rule, complied with the Commission rules made under section 20.9.

33. Under Section 20.21(4) of the *Electric Utilities Act*, the applicant has the onus of satisfying the Commission that all of the approval criteria have been met.

34. Section 20.9 of the *Electric Utilities Act* requires the Commission to make rules requiring the AESO to consult with parties in the development of ISO rules and permits the Commission to develop rules governing the AESO's process in the development of those ISO rules.

35. Rule 017: *Procedures and Process for Development of ISO Rules and Filing of ISO Rules with the Alberta Utilities Commission*, is the Commission rule which was created in response to Section 20.9 of the *Electric Utilities Act*. Rule 017 specifies notice, consultation and other requirements relating to the development of proposed ISO rules.

5 Discussion

36. By the time of argument, it became apparent that the focal point of TransAlta's disagreement with the AESO's application was Section 5 of Section 306.7, which concerns transmission access treatment. In TransAlta's submission, this section meets none of the elements of the test specified under Section 20.21(2) of the *Electric Utilities Act*.

37. The proposed transmission access treatment provisions (Section 5) are a pivotal part of the broader amendments proposed in the application. For reasons discussed below, these provisions do not meet the test specified Section 20.21(2) of the *Electric Utilities Act*. Given that the transmission access treatment provisions are intertwined with the remainder of the AESO's application, the Commission has decided to deny the entirety of the AESO's application.

38. Note that of the remaining amendments to Section 306.7 which are not specifically addressed below, the Commission does not have particular concerns and finds that they comply generally with the criteria in Section 20.21 of the *Electric Utilities Act*.

5.1 Transmission access treatment proposal

39. Proposed Section 5 reads as follows:

5(1) The ISO must, if:

- (a) a source asset that is directly connected to the transmission system has been on a mothball outage for more than 24 months; and
- (b) the ISO identifies that the source asset on the mothball outage impacts transmission system access for a project in the ISO's connection process;

notify the pool participant of the source asset on mothball outage as soon as practicable.

(2) The pool participant must, within 30 days of receiving the notification in subsection 5(1) inform the ISO in writing of its decision to:

- (a) return the capability on mothball outage to service in accordance with the minimum time declared in subsection 2(1)(b); or
- (b) discontinue operation of the source asset.

(3) The pool participant must, if the pool participant elects to discontinue operations, submit to the ISO the prescribed forms to reduce the supply transmission service to the source asset's applicable available capability with the written notification provided in accordance with subsection 5(2)(b).

(4) The ISO must, if the pool participant does not act in accordance with subsection 5(2), reduce the supply transmission service to reflect the available capability of the source asset at the end of the mothball outage period as soon as practicable and in accordance with the ISO tariff.

40. The AESO explained the key effect of its proposed Section 5 as follows: "a pool participant has the option to extend the mothball outage if the mothballed unit continues to be uneconomic. After the 24-month maximum duration elapses, the pool participant must decide to: (i) return the mothballed unit to service; or (ii) reduce its STS Contract Capacity, only if a new connection project is seeking to connect in the area and the AESO identifies transmission limitations."¹⁹ During the course of the proceeding, it became clear that the pool participant would be required, under proposed Section 5(4), to reduce its STS contract capacity by the amount of capability that is mothballed, meaning that if the entire source asset was mothballed, the asset's STS contract capacity would be reduced to zero MW. This reduction would only occur if: (a) a new project sought connection in the area of the mothballed generator; (b) the AESO anticipated that the new project, in conjunction with the mothballed unit returning to service, would cause congestion on the system; and (c) the mothballed unit elected not to return to service at that time.

41. The AESO explained that its proposed changes to Section 5 address, among other things, the "waste" in transmission capacity and the possible overbuilding of additional transmission capacity, and the creation of needless barriers to market entry by "reserving" system capacity for

¹⁹ Exhibit 28081-X0001.01, Application for Proposed Amended Section 306.7 and Consequential Amendments, PDF page 21, paragraph 106.

mothballed units that are not actually using the system's capacity after being shut down for the initial two-year mothball period. For example, the AESO indicated that under the existing rule, when a new generator wants to connect in an area where an existing generating unit has been mothballed for at least two years, it could: upgrade the transmission system, which increases the costs to ratepayers and may result in an overbuilt transmission systems; restrict the capacity available to the new entrant; or impose a RAS.

42. In short, the AESO's view was that under its proposed amendments, mothballed assets are granted a reasonable, uninterrupted period of remaining offline (i.e., an initial period of up to two years), while the market and the AESO have reasonable certainty around market re-entry and available transmission capability.

5.2 Analysis of transmission access treatment provisions

43. As already noted, the ISO has the onus under Section 20.21 of the *Electric Utilities Act* of satisfying the Commission that its proposed amendments are not technically deficient, support the FEOC operation of the market to which it relates, and are in the public interest.

44. The Commission addresses the FEOC and public interest components of the test first, followed by an assessment as to whether the proposed amended rule is not technically deficient.

5.2.1 The FEOC and public interest criteria

45. For the FEOC component of the test, the Commission expects the AESO to provide sufficient information to be satisfied that the proposed rule supports the fair, efficient and openly competitive operation of the electricity market (Decision 27047-D01-2022, at paragraph 28).

46. The public interest component of the test, which is a formulation of opinion of the relevant tribunal incorporating considerable administrative discretion, must also be based on information available on the record of the proceeding (see *Montana Alberta Tie Ltd*, 2009 ABCA 167 at paragraphs 66-73, citing *Emera Brunswick Pipeline Company Ltd.*, NEB Decision GH-1-2006 at 10). An assessment of public interest is circumscribed by the legislative scheme and the delegation of the relevant areas of jurisdiction and is based on a balancing of the various factors, including social, economic, and environmental effects (Decision 2008-006 at paragraphs 303-304).

47. Given the intertwined nature of the FEOC and public interest components of the test as they apply in this case, the Commission has considered them together.

48. A significant problem with proposed Section 5 of the mothball rule, in the Commission's view, is that it lacks proportionality. The hypothetical example provided by TransAlta is illustrative.²⁰ In that example, a new generation project requests 10 MW of STS contract capacity in an area where a generating unit with 300 MW of STS contract capacity has been mothballed for longer than 24 months. Under the proposed rule, if the 300 MW unit did not return to service after being notified of the new generator's request to connect (where congestion was anticipated as a result of the new connection), the 300 MW unit would lose its entire STS contract capacity, even though the new project would require only 10 MW. The reasonableness of reducing the entirety of the mothballed unit's STS contract capacity is not evident on its face because the new

²⁰ Exhibit 28081-X0012, TransAlta SIP Letter, PDF page 2.

entrant only requires 10 MW of transmission capacity, which, at face value, prevents the mothballed unit from using 290 MW of possible capacity without first requiring the mothballed unit, should it desire to return to service, to follow the same process as a new connection before it can access any amount of the 290 MW of capacity.

49. The Commission posed IRs about the possibility of modifying Section 306.7 to reduce the STS contract capacity of the mothballed unit by the amount of capability requested by the new entrant. In response, the AESO explained that power flows and transmission congestion constraints do not exist in a one-to-one relationship, and that resolving a transmission congestion constraint is a function of how effective curtailment of a generating unit will be in mitigating the congestion. As a result, the AESO determines a generating unit's "effectiveness factor" from a measure of this relationship.

50. The Commission gathers from the AESO's explanation that, based on effectiveness factors, the mothballed unit may be required to reduce its STS contract capacity by a greater amount than the capability required to serve a new unit in the area. Further, the mothballed unit's effectiveness factor may vary over time as a result of system changes such as other generators or loads connecting, or changes to system configuration. The AESO stated that allowing for the continued "partial mothballing"²¹ of capability in such a situation would also require the AESO, for the purpose of planning the transmission system, to continually monitor and take into account expectations of whether a mothballed unit will return to service in an area where new entrants are seeking to connect.²² In response to this submission, TransAlta pointed out that Section 17(i) of the *Electric Utilities Act* requires the AESO "to assess the current and future needs of electricity market participants and plan the capability of the transmission system to meet those needs."

51. Tied to the Commission's concerns about reduction of STS contract capacity provisions in proposed Section 5 is how the AESO's new cluster-based connection process might affect a mothballed unit that has lost its STS contract capacity but wants to recommence operations.

52. The Commission received evidence that in the AESO's newly implemented cluster assessment process, applicants wishing to connect by a specified future date are grouped into a single cohort. The first such cohort was for applicants wishing to connect by 2028. The next cohort will be for applicants wishing to connect by 2029.²³ The AESO also explained that applicants would register for a cohort during an eight month window. Once the window closes, the assessment begins and will typically be completed over the following nine months.²⁴ The Commission understands, therefore, that should a mothballed unit that has lost its STS contract capacity apply to regain transmission access, the pool participant could expect, under the AESO's cluster assessment process, to wait up to eight months for the current application window to close and then a further nine months for the assessment to take place before being advised if sufficient transmission capacity was available. The Commission understands that while the cluster assessment process may more efficiently and fairly manage new connection

²¹ The AESO used this term in reference to the scenario highlighted in paragraph 48, where 300 MW of STS contract capacity is reduced to 290 MW to account for a new entrant requesting 10 MW of STS contract capacity (i.e., the 300 MW would be "partially mothballed" to 290 MW). The Commission notes that in all other places in this decision, "mothballing" is used with respect to generating capability and not transmission capacity.

²² Exhibit 28081-X0023, AESO-AUC-2023JUN19-001 to 005, PDF page 4, AESO-AUC-2023JUN19-001(b).

²³ Exhibit 28081-X0039, Vol_01_2023-11-15, PDF page 78.

²⁴ Exhibit 28081-X0039, Vol_01_2023-11-15, PDF page 153.

applications, and that the associated timelines may be adequate for that purpose, applying the process to the reconnection of previously mothballed units may significantly extend the timeline for their return and impose additional costs on them.

53. Implementing any transmission enhancements or modifications required to enable reconnection such as a RAS may delay reconnection further.

54. The Commission considers that the existing Section 306.7 already provides the AESO with discretion to permit an extension of a mothball outage beyond the initial 24-month period on any terms it considers appropriate, which could include terms similar to those that would be mandated under the proposed transmission access provisions. Section 5(2) of the existing rule states that “[a] pool participant must cancel a mothball outage no later than twenty-four (24) months after the date of commencement of the mothball outage, *unless otherwise agreed to by the ISO, in writing [emphasis added].*” As an example, the AESO could agree to permit an extension to a mothball outage beyond the initial 24 month period on the condition that if, at any time during the extension period, a new entrant wished to connect in the area and a system constraint would result, the mothballed unit would be required to return to service, discontinue operations²⁵ or reduce its STS contract capacity proportionately with the transmission capacity required by a new entrant and as required to alleviate a transmission constraint, taking into account the relevant effectiveness factors.

55. The Commission understands that it is not the AESO's practice, under the existing rule, to exercise its discretion in this manner. The AESO indicated that it does not believe the discretion afforded by existing Section 306.7 is sufficient to address transmission constraints or reduce the STS contract capacity of a mothballed unit. It provided the following reasons. First, the AESO's current practice under Section 5(2) of the existing rule is to grant a requested mothball outage extension for a further fixed 24 month term, with the mothballed unit's STS contract capacity remaining “locked-in” during that period.²⁶ The AESO explained that as a result, it has no recourse if a transmission access issue arises during the 24 month extension term.²⁷ Second, the existing rule lacks explicit wording granting the AESO the authority to reduce the STS contract capacity of a mothballed unit, meaning that exercising its discretion in this way may open the AESO up to protests from generators.²⁸

56. The AESO also indicated that stakeholders were not in favor of maintaining Section 5(2) of the existing rule. However, in its review of the consultation record, the Commission noted that opposition to the AESO's proposed amendments was just as pronounced (if not more so), with several stakeholders indicating that the existing rule offers the AESO sufficient discretion to deal with potential congestion constraints caused by new connections in an area with mothballed units.²⁹

²⁵ The AESO highlighted in its IR responses that the decision to discontinue operations, under both the current and proposed amended Section 306.7, is made by the pool participant, not the AESO. Choosing to discontinue operations would then lead to the STS contract capacity being reduced (practically speaking, to zero MW). However, in the proposed amendments, the reduction in STS contract capacity would be ultimately performed by the AESO, as the automatic outcome if a pool participant neglected to either return the capability of the mothballed unit to service or discontinue operations.

²⁶ Exhibit 28081-X0039, Vol_01_2023-11-15, PDF pages 67, 68, 143 and 144.

²⁷ Exhibit 28081-X0039, Vol_01_2023-11-15, PDF pages 143 and 144.

²⁸ Exhibit 28081-X0039, Vol_01_2023-11-15, PDF pages 143 and 144.

²⁹ Exhibit 28081-X0005, Appendix D Consultation Record, PDF pages 265, 282, 287 and 292 (for example).

57. The Commission’s view is that the reasons given by the AESO do not provide an adequate explanation for why the AESO could not exercise its discretion in a different way under current Section 306.7, short of changing the ISO rule. The AESO’s current practice appears to be overly rigid given the AESO’s discretion under the existing rule to, for instance, deny a mothball extension or to permit the extension for some duration other than 24 months, or to impose conditions to address potential transmission constraints,³⁰ as appropriate in the circumstances.

58. Consequently, it is not apparent to the Commission why the AESO’s proposed requirement that a mothballed unit “reduce the supply transmission service to reflect the available capability of the source asset at the end of the mothball outage period” (i.e., to zero MW in some or all instances) is necessary or why any change to Section 306.7 should necessarily mandate reductions to a mothballed unit’s STS contract capacity. The Commission acknowledges that mothball outages were never intended as an avenue to remove generating units from the market indefinitely. On the other hand, Section 306.7 already exists and was implemented by the AESO itself in 2016, to address the economic issues faced by market participants at that time. While the total mothballed outage capability was as high as 1200 MW for a brief time (in 2018), that total declined sharply afterwards and there have been no units on mothball since mid to late 2021,³¹ all of which supports a conclusion that amendments to Section 306.7, while perhaps necessary in some form, are not *urgently* necessary.

59. Additionally, the Commission is mindful that, while maintaining the *status quo* (including the AESO’s practice in dealing with mothballed units whose owners wish to mothball them beyond 24 months) has the potential to act as a barrier to new entrants and may lead to overbuilding the transmission system, the proposed amendments create other concerns. These include possible harm to the market in the form of reduced competition and decreased reliability of the system resulting from the reduction of mothballed generators’ STS contract capacity to zero MW if the conditions of the proposed rule were met. These trade-offs form part of the overall assessment of the application, particularly respecting the FEOC component of the test.

60. The Commission is concerned that the costs associated with proposed Section 5 are unnecessarily high, which may include not only the potential unfairness to pool participants with mothballed units and the inefficient use of resources, but also the possible harm to the market in the form of reduced competition and decreased system reliability, particularly when the current mothball rule appears to offer the AESO flexibility to determine appropriate solutions on a case-by-case basis.

61. For the above reasons, the proposed amendments do not, on balance, support the fair, efficient, and openly competitive operation of the market, nor are they in the public interest.

62. As *obiter*, the Commission notes that there may be other feasible approaches to the AESO’s concern about mothballed units preventing new entrants access to the transmission system. For example, the AESO may instead choose to explore ways to expedite the reinstatement of foregone STS capacity to mitigate the potential costs of cancelling mothball outages or may consider offering pool participants with mothballed units a similar opportunity service to that received by import participants, as an alternative to losing their STS contract

³⁰ See example at paragraph 54 of this decision.

³¹ Exhibit 28081-X0023, AESO-AUC-2023JUN19-001 to 005, PDF page 6, AESO-AUC-2023JUN19-001(e).

capacity. The Commission reiterates that alternatives such as these were not considered in this proceeding and in raising them, it is not the Commission's intention to opine on their suitability.

5.2.2 The “not technically deficient” criterion

63. Under Section 20.21(2) of the *Electric Utilities Act*, the Commission must be satisfied that the ISO's proposed amendments are not technically deficient.

64. Determining whether a proposed rule is technically deficient will include considerations such as whether the rule incorporates and defines fundamental concepts, and articulates process steps and the rule's scope (see Decision 2013-135 at paragraph 69, citing Decision 2009-042 at paragraph 86).³² The AESO has itself represented, in other ISO rule applications, that it considers a technically non-deficient rule to be clear, concise and cohesive to facilitate stakeholder understanding, and consistent with the statutory scheme.³³

65. The Commission agrees with TransAlta's submissions that the initiating condition for the reduction of STS contract capacity to zero MW contemplated in the proposed amendments was not well defined and failed to incorporate fundamental concepts and concerns. For instance, TransAlta submitted that the proposed rule did not describe what the “impacts” on the transmission system would need to be (including how those impacts would be assessed and what metrics would be used) in order to trigger the ISO's notice to the pool participant under Section 5(1) of the proposed rule.³⁴

66. Further, the Commission is concerned about amended Section 5(4), which contemplates a scenario where the pool participant, having received notice that the source asset on mothball outage is impacting transmission system access for a project in the ISO's connection process, has neither returned the capability of the mothballed outage to service nor discontinued operation of the source asset. The Commission finds that the wording in this section, which directs the ISO to reduce the STS to reflect the available capacity at the end of the mothball outage period, is unclear. Absent a decision by the pool participant to discontinue operation of the source asset, it is not clear how or if the duration of the mothball outage would be affected and how the available capability of the source asset might be affected by the mothball outage ending.

67. The Commission is also concerned with the wording in a separate section of the proposed amendment, Section 8 (*Authority to Issue a Mothball Outage Cancellation Directive*). Proposed Section 8(2) states that “[t]he pool participant must, if the ISO issues a directive in accordance with subsection 8(1), return the capability of the source asset on mothball outage to service in accordance with the minimum time declared in subsection 2(1)(b).” The Commission notes that the AESO has not addressed compensation for mothballed units that receive a directive to return to service. The matter of payment for generating units that provide generation in response to an AESO directive has been consistently addressed in other AESO authoritative documents (such as ISO Rules Section 103.4, *Power Pool Financial Settlement*; ISO Rules Section 202.4, *Managing Long Lead Time Assets*; ISO Rules Section 302.1, *Real Time Transmission Constraint*

³² Decision 2013-135 and Decision 2009-042 involved complaints filed by market participants about ISO rules, and therefore the market participant objectors bore the onus of demonstrating that the impugned ISO rules were technically deficient. Here, the AESO bears the onus of demonstrating that the proposed ISO rule amendments are not technically deficient.

³³ Decision 27604-D01-2022 at paragraph 17(a) and (c); Decision 27990-D01-2022 at paragraph 21(a) and (c), among others.

³⁴ Exhibit 28081-X0039, Vol_01_2023-11-15, PDF page 105.

Management and Section 8 of the ISO tariff). The Commission is concerned about this inconsistency in treatment of compensation in response to a directive for various reasons, noting that consistency between AESO authoritative documents, whenever possible, is desirable.³⁵

68. Cumulatively, the AESO has not persuaded the Commission that its proposed amendments are not technically deficient. First, the Commission's view is that the initiating condition (i.e., the "impact" specified at Section 5(1)(b)) for the ISO's notice to the pool participant with a source asset on a mothball outage) is insufficiently defined. Further, there is a lack of specificity in provisions such as sections 5(3), 5(4), and 6(1)(a). Consider the case of a pool participant, with a source asset on a mothball outage that has been mothballed for longer than 24 months, who receives notice that the ISO has identified a transmission constraint caused by a new entrant in the area. The prescribed outcomes, depending on the steps taken by said pool participant, are not, in the Commission's opinion, clearly described, especially regarding the potential reduction of the mothballed unit's STS contract capacity to zero MW. Lastly, the Commission finds that the lack of reference to compensation for mothballed units that are directed back to service, as contemplated in Section 8(2), is inconsistent with other AESO authoritative documents.

5.3 Consultation requirements

69. Sections 4 and 5 of Rule 017 requires the AESO to post notice of proposed rules, receive comments from stakeholders and provide written responses to stakeholder comments, all of which must be posted on its website. The AESO had originally committed to a full stakeholder consultation on Section 306.7, after the rule was granted expedited approval in 2016. Under the version of the *Electric Utilities Act* in force at that time, prior consultation with stakeholders was not an express requirement in the case of an expedited rule.

70. For the amendments comprising the current application, beginning in October 2020, the AESO issued a letter of notice to stakeholders, held stakeholder sessions, received comments from stakeholders and made revisions to the proposed mothball rule amendments where appropriate. All comments, along with AESO replies explaining the rationale for why certain positions were accepted or rejected, were then posted to the AESO's website. The full details of the consultation process are available within the filed application.

71. The AESO confirmed that its stakeholder consultation process included any party that was interested in, or may be directly affected by, Section 306.7, and provided sufficient opportunity for stakeholders to make submissions.

72. The current proceeding's scope limits the Commission's review to the consultation conducted by the AESO in relation to the proposed amendments to Section 306.7, not the rule as a whole. Nevertheless, given that many stakeholders expressed concerns about the AESO's consultation on the original Section 306.7, the Commission reiterates that it was a commitment by the AESO rather than a condition of the approval granted in Proceeding 21672, that the AESO engage in consultation on the original Section 306.7, and there were no consultation

³⁵ The Commission acknowledges that compensation for mothballed units directed back to service does not necessarily have to be included in Section 306.7, as it could be addressed through the ISO tariff. However, the Commission's concern is that it is currently not addressed anywhere within AESO authoritative documents.

requirements for the implementation of expedited ISO rules stated in either the *Electric Utilities Act* or Rule 017 that were in force at the time.

73. Having reviewed the details of the consultation conducted by the AESO provided in the application, the Commission is satisfied that the informational and consultation requirements established by Rule 017 have been met for the proposed amendments described in the current application.

6 Order

74. The Commission finds that the proposed amendments to Section 306.7 of the ISO rules, *Mothball Outage Reporting*, as well as consequential amendments to Section 2.4 of the ISO tariff and the definitions of “mothball outage” and “supply transmission service” in the AESO Glossary, do not, when considered together, fulfill the necessary criteria specified by Section 20.21 of the *Electric Utilities Act*. In particular, the Commission finds that parts of the proposed rule amendment are technically deficient, do not support the fair, efficient and openly competitive operation of the electricity market and are not in the public interest under Section 20.21(2)(a).

75. Accordingly, pursuant to Section 20.21(1)(c) of the *Electric Utilities Act*, the Commission refuses to approve the proposed amendments to Section 306.7 of the ISO Rules, *Mothball Outage Reporting*, as well as consequential amendments to Section 2.4 of the ISO tariff and the definitions of “mothball outage” and “supply transmission service” in the Glossary.

Dated on February 15, 2024.

Alberta Utilities Commission

(original signed by)

Douglas A. Larder, KC
Vice-chair

(original signed by)

Vincent Kostas
Acting Commission Member