



Province of Alberta

ELECTRIC UTILITIES ACT

CITY OF MEDICINE HAT PAYMENT IN LIEU OF TAX REGULATION

Alberta Regulation 235/2003

With amendments up to and including Alberta Regulation 137/2019

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(Consolidated up to 137/2019)

ALBERTA REGULATION 235/2003

Electric Utilities Act

**CITY OF MEDICINE HAT PAYMENT
IN LIEU OF TAX REGULATION**

Table of Contents

1	Interpretation
2	Payment to Balancing Pool
3	Aggregate taxable amount
4	Rules about payment to Balancing Pool
5	Annual information return
6	Refund from Balancing Pool
7	Penalties and interest
8	Application of tax Acts
9	Costs of Minister
10	Use and disclosure of information
11	Expiry
12	Coming into force

Interpretation

1(1) In this Regulation,

- (a) “Act” means the *Electric Utilities Act*;
- (b) “available unit” means, in each settlement interval, a generating unit owned by the City of Medicine Hat that is physically capable of generating electric energy in that settlement interval;
- (c) “balancing pool payment” means an amount calculated in accordance with this Regulation that the City of Medicine Hat
 - (i) must pay to the Balancing Pool for a year, or
 - (ii) is entitled to receive from the Balancing Pool for a year;
- (d) “cost ranking schedule” means, in each settlement interval, a ranking of the available units in order of increasing variable unit cost;

- (e) “electric energy” means electric energy bought or sold by the City of Medicine Hat
- (i) in the power pool and ancillary services markets,
 - (ii) on a forward exchange, or
 - (iii) pursuant to a direct sales agreement;
- (f) “export cost” means the cost calculated for each settlement interval in accordance with the following formula:
- (A - B)
- where
- “A” is the sum of (VUC x N) for all available units that produce electric energy in the settlement interval
- where
- “VUC” is the variable unit cost of an available unit for the settlement interval, and
- “N” is the number of megawatts generated by that available unit in the settlement interval;
- “B” is the municipal cost in the settlement interval;
- (g) “export revenue” means the sum of the proceeds from all electric energy provided to the interconnected electric system in each settlement interval by the available units;
- (h) “export transmission cost” means the sum of the charges and credits that apply pursuant to the ISO tariff for the provision of electric energy to the interconnected electric system;
- (i) “exports” means the number of megawatt hours of electric energy provided to the interconnected electric system in each settlement interval by the available units;
- (j) “fuel price” means the weighted average spot price for natural gas, for each day at AECO-C and Nova Inventory Transfer, as reported daily in the Canadian Gas Price Reporter but excluding weekend deals, expressed in Canadian dollars per gigajoule;

- (k) “heat rate” means the amount of fuel consumed to generate one megawatt hour of electric energy, expressed in gigajoules per megawatt hour, and
- (i) if an available unit generates electric energy during a settlement interval, its heat rate for that settlement interval is the ratio of the number of gigajoules consumed in that settlement interval to the number of megawatts generated in that settlement interval, or
 - (ii) if an available unit does not generate electric energy during a settlement interval, its heat rate for that settlement interval must be fairly and reasonably estimated on the basis of the technical specifications and operating history of the available unit;
- (l) “import avoided cost” means, in each settlement interval, the minimum cost according to the cost ranking schedule, of increasing the amount of electric energy generated by the available units by the amount of imports in that settlement interval;
- (m) “import cost” means the total cost of purchases of imports in a settlement interval;
- (n) “import transmission cost” means the sum of the charges and credits that apply pursuant to the ISO tariff for the receipt of electric energy from the interconnected electric system;
- (o) “imports” means the number of megawatt hours of electric energy received from the interconnected electric system in each settlement interval by the City of Medicine Hat;
- (p) “ISO tariff” means the tariff prepared by the Independent System Operator under section 30 of the Act that has been approved by the Commission;
- (q) “marginal rate of tax - *Alberta Corporate Tax Act*” means the rate of tax for a taxation year as specified in section 21 of the *Alberta Corporate Tax Act*;
- (r) “marginal rate of tax - *Income Tax Act (Canada)*” means the rate calculated in accordance with the following formula:

$$(1 + D)(A - B) - C$$

where

- “A” is the rate for the taxation year as specified in section 123 of the *Income Tax Act* (Canada);
- “B” is the percentage amount specified in section 124(1) of the *Income Tax Act* (Canada);
- “C” is the general rate reduction percentage for the taxation year as defined in section 123.4 of the *Income Tax Act* (Canada);
- “D” is the percentage amount of the corporate surtax specified in section 123.2 of the *Income Tax Act* (Canada);
- (s) “Minister” means the President of Treasury Board and Minister of Finance;
- (t) “municipal consumption” means, in each settlement interval, the number of megawatt hours of electric energy generated by the available units and consumed in the service area of the City of Medicine Hat;
- (u) “municipal cost” means, in each settlement interval, the minimum cost according to the cost ranking schedule, of generating sufficient electric energy to equal municipal consumption in that settlement interval;
- (v) “operating and maintenance rate” means the variable costs of operating and maintaining an available unit, per megawatt hour;
- (w) “tax Acts” means
- (i) the *Income Tax Act* (Canada) and the regulations made under that Act, and
 - (ii) the *Alberta Corporate Tax Act* and the regulations made under that Act;
- (x) “transaction cost” means the sum of
- (i) the fees, charges and payments established by the ISO for the provision of electric energy to or the receipt of electric energy from the interconnected electric system, and
 - (ii) the charges levied by a forward exchange for the sale or purchase of electric energy through that exchange,
- which must be based only on the amount of electric energy provided, received, sold or purchased;

- (y) “variable unit cost” means, for each available unit in each settlement interval, the product of its heat rate and the fuel price, plus the operating and maintenance rate, expressed in dollars per megawatt hour;
- (z) “year” means the fiscal year of the City of Medicine Hat.

(2) Words and phrases used in this Regulation and not defined in the Act or this Regulation have the meaning given to them in the tax Acts.

(3) For the purposes of this Regulation, the reference to “this Act” in section 245(1) and (4) of the Income Tax Act (Canada) must be read as if it were a reference to the Electric Utilities Act.

(4) Where the City of Medicine Hat establishes a subsidiary that generates revenue or reduces expenses as a result of the subsidiary’s connection to the interconnected electric system, the reference to “the City of Medicine Hat” in this Regulation must be read as if it were also a reference to that subsidiary.

AR 235/2003 s1;105/2005;68/2008;175/2008;31/2012;
62/2013;114/2018

Payment to Balancing Pool

2(1) Each year, the City of Medicine Hat must pay to the Balancing Pool a balancing pool payment in lieu of taxes equal to the sum of

- (a) the product of the aggregate taxable amount for the year calculated under section 3 and the marginal rate of tax - *Income Tax Act* (Canada), and
- (b) the product of the aggregate taxable amount for the year calculated under section 3 and the marginal rate of tax - *Alberta Corporate Tax Act*.

(2) Where the year includes January 1, 2004, for purposes of subsection (1), the year is considered to commence on January 1, 2004 and end on the last day of the year.

(3) On the coming into force of this Regulation, the operating and maintenance rate is set at \$3.50 per megawatt hour.

(4) Effective March 1, 2004, and each subsequent March 1, the operating and maintenance rate must be adjusted by the percentage change from the preceding year in the January All-items Consumer price index for Alberta, not seasonally adjusted, published by Statistics Canada in Table 326-0001, or its successor index.

(5) Where the aggregate taxable amount calculated under section 3 for a year is less than \$0, no balancing pool payment is payable by

or to the City of Medicine Hat in respect of that year unless section 6 applies.

Aggregate taxable amount

3(1) For the purposes of section 2(1), the aggregate taxable amount for the year is the sum of the following amounts:

- (a) the taxable amount related to exports for each settlement interval in the year in which an export occurs, calculated as follows:

export revenue - (export cost + export transmission cost + transaction cost associated with exports);

- (b) the taxable amount related to imports for each settlement interval in the year in which an import occurs, calculated as follows:

import avoided cost - (import cost + import transmission cost + transaction cost associated with imports);

- (b.1) repealed AR 137/2019 s2;

- (c) the net income for the year from any swap, option, agreement, derivative, futures contract or other arrangement entered into by the City of Medicine Hat relating to an activity described in clause (a) or (b) or arising because of that city's connection to the interconnected electric system;

- (d) the net income received by the City of Medicine Hat for the year as a result of

- (i) providing electric energy to the interconnected electric system from generating units not owned by that city,
- (ii) receiving electric energy from the interconnected electric system on behalf of an entity other than the City of Medicine Hat, and
- (iii) providing ancillary services to the interconnected electric system.

(2) For purposes of calculating net income under subsection (1)(c) and (d), the City of Medicine Hat may, in a fair and reasonable manner, deduct only the variable costs in respect of a transaction.

(3) Where the City of Medicine Hat pays a tax in a jurisdiction outside Alberta in respect of income earned from the sale of electric energy in that jurisdiction, that city may deduct from the amount payable under section 2 the lesser of

- (a) the amount of tax paid on that income in that jurisdiction, and
- (b) the amount that would be payable under this Regulation in respect of that income.

AR 235/2003 s3;114/2018;243/2018;137/2019

Rules about payment to Balancing Pool

4(1) The City of Medicine Hat must make the balancing pool payment required under section 2 in monthly instalments in accordance with the tax Acts for each year in which this Regulation applies.

(2) Not later than the last day of the 2nd month following the end of a year, the City of Medicine Hat must

- (a) calculate the actual amount of the balancing pool payment that it must pay to or is entitled to receive from the Balancing Pool for the year, and
- (b) if the actual balancing pool payment is greater than the total of the instalments made by the City of Medicine Hat in the year, pay the difference to the Balancing Pool.

Annual information return

5 The Minister may prescribe the form of an annual information return to be filed by the City of Medicine Hat not later than the last day of the 6th month following the end of a year, for the purpose of determining the balancing pool payment for the year.

Refund from Balancing Pool

6(1) The City of Medicine Hat is entitled to receive a balancing pool payment from the Balancing Pool

- (a) where the total of the instalments paid by that city in a year is greater than the actual balancing pool payment calculated under section 2 for that year,
- (b) where that city has applied, in accordance with the tax Acts, a loss or a portion of a loss from other years in a year for which a balancing pool payment would otherwise be payable under this Regulation, or

- (c) where, after that city has paid instalments pursuant to section 4 to the Balancing Pool for a year, that city is assessed a tax pursuant to
 - (i) Parts I and I.3 of the *Income Tax Act* (Canada), and
 - (ii) the *Alberta Corporate Tax Act*.
- (2) The amount the City of Medicine Hat is entitled to receive under subsection (1) is the difference between
 - (a) the amount actually paid by that city for a year, and
 - (b) the amount required to be paid by that city under this Regulation for the year.
- (3) Where the City of Medicine Hat is entitled to receive a balancing pool payment under this section, that city is entitled to interest from the Balancing Pool in the amount that would be payable and on the terms that would apply if a refund were payable to that city under the tax Acts.
- (4) In subsection (1)(b), “loss” means an aggregate taxable amount calculated under section 3 for a year and reported on a return filed under section 5 that is less than \$0.

Penalties and interest

- 7(1)** If the City of Medicine Hat fails to comply with an obligation under the tax Acts that would have applied to that city if it were not exempt from taxation under those Acts, that city is subject to the penalty or interest, or both, that is payable under those Acts for that failure.
- (2) If the City of Medicine Hat fails to comply with an obligation under this Regulation, that city is subject to the penalty or interest, or both, that is payable under the tax Acts for that failure.
- (3) Any penalty or interest payable pursuant to this section must be paid to the Balancing Pool within the time frames that the penalties and interest are payable under the tax Acts.

Application of tax Acts

- 8(1)** The Minister
 - (a) may take any action with respect to returns and payments required under this Regulation that the Canada Revenue Agency or the Minister is authorized to take with respect to returns and payments of tax under the tax Acts, and

(b) is subject to the obligations of the Canada Revenue Agency and the Minister under the tax Acts.

(2) Except as modified by this Regulation, the City of Medicine Hat

(a) is entitled to the benefits of the rights, processes, procedures and remedies available to taxpayers under the tax Acts, and

(b) is subject to the obligations of taxpayers under the tax Acts.

(3) A decision of the Minister that under the tax Acts would be subject to appeal to a court may be appealed to the Court of Queen's Bench of Alberta.

AR 235/2003 s8;288/2009

Costs of Minister

9 Any costs incurred by the Minister to administer this Regulation are payable by the Balancing Pool.

Use and disclosure of information

10 Section 77 of the *Alberta Corporate Tax Act* applies to information in the custody or under the control of the Minister.

Expiry

11 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on June 30, 2021.

AR 235/2003 s11;175/2008;185/2013

Coming into force

12 This Regulation comes into force on January 1, 2004.



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