

**AGENDA FOR THE REGULAR MEETING OF  
THE COUNCIL OF THE TOWN OF ONOWAY  
HELD ON WEDNESDAY, JUNE 5, 2019 IN THE COUNCIL CHAMBERS  
OF THE ONOWAY CIVIC OFFICE AT 9:30 A.M.**

**1. CALL TO ORDER**

**2. APPROVAL OF AGENDA**

- as is, or with additions or deletions

**3. APPROVAL OF MINUTES**

- May 16, 2019 Regular Council Meeting

**4. APPOINTMENTS/PUBLIC HEARINGS – n/a**

**5. FINANCE – n/a**

**6. POLICIES & BYLAWS – Draft by-law request from Fortis (see Action Item b)**

**7. ACTION ITEMS**

- a) Town of Onoway 2019 Municipal Accountability Program Review (MAP) Report – please refer to the attached May 16, 2019 letter from Meryl Whittaker, Deputy Minister of Municipal Affairs providing a copy of the February 7, 2019 Report. *(for discussion by Council, that the report be accepted for information and that the Town proceed with addressing the legislative gaps noted in the report)*

Pg 1-3

Pg 4-91

Pg 92-158  
b) Fortis Alberta Bylaw Request – please refer to the May 14, 2019 email and letter from Nicole Smith, Stakeholder Relations Manager, Fortis. For many years now the Town of Onoway has had a franchise agreement with Fortis Alberta. This franchise agreement gives Fortis Alberta exclusive rights to provide electrical service to all properties within the Town of Onoway. There have been eight properties within the Town that, prior to the original franchise agreement being signed, were being serviced by EQUUS. These properties have remained EQUUS customers, but now there is an Alberta Utilities Commission ruling that these services must be transferred to Fortis. The town will need to pass a bylaw to this extent (draft bylaw provided by Fortis is attached), but before Administration prepares this bylaw, I want to ensure Council understands the background to this change. Some of these 8 residents may not agree with being forced to change, but I do not believe we have a choice. *(accept the Fortis Alberta background documentation for information, and Administration prepare the noted bylaw for Council consideration at our June 20 meeting, or some other direction as given by Council at meeting time)*

Pg 159  
c) Alberta Seniors and Housing – please refer to the May 22, 2019 letter from Josephine, Pon, Minister of Seniors and Housing for Seniors Week June 2 to 8, 2019. There is a poster we can put up and on our website. In the past, the Town did try to organize something but found little participation and many of our Seniors have attended the County's event in the past. *(host an event, or accept for information)*

d) Tax Reduction for Roll 543000 – Council to consider a reduction of \$600.00 of the minimum tax collected for this Tax Roll. *(approve a reduction of \$600.00 of the minimum municipal tax collected for 2019 for Roll 543000)*

Pg 160-161  
e) 2019 Alberta Recreation and Parks Association (ARPA) Annual Conference and Energize Workshop "Growing Recreation Together" – please refer to the attached May 23, 2019 letter inviting partners to the conference in Lake Louise from October 24-26, 2019. *(authorize attendance or accept for information).*

Pg 162-163  
f) Special Permit Application – please refer to the attached June 2, 2019 documentation from the residents of 4720 – 48 Street requesting that the Town of Onoway approve a special permit to grandfather the existing ditch and curb notch at 4720 – 48 Street. The estimate to repair this is \$1,000.00. This is an unprecedented request.

g)

h)

i)

## 8. COUNCIL, COMMITTEE & STAFF REPORTS

- a) Mayor's Report
- b) Deputy Mayor's Report
- c) Councillor's Reports (x 3)
- d) CAO Report

Pg 164 - Review Vision Statement  
- Industrial Development Economic Development Committee Update

Pg 165-168 - Bretzlaff Park

- e) Public Works Report  
- Property Lines

## 9. INFORMATION ITEMS

- Pg 169-170  
Pg 171-173
- a) May 13, 2019 – YRL Board Executive Committee Highlights
  - b) May 28, 2019 – Onoway Junior Senior High Legion Poster Contest Winners
  - c)

## 10. CLOSED SESSION – n/a

## 11. ADJOURNMENT

## 12. UPCOMING EVENTS

- June 6, 2019 – AUMA Caucus Ft Saskatchewan 9:00 a.m.
- June 20, 2019 – Regular Council Meeting 7:00 p.m.
- July 4, 2019 – Regular Council Meeting 9:30 a.m.
- July 18, 2019 – Regular Council Meeting 7:00 p.m.
- August 1, 2019 – Regular Council Meeting 9:30 a.m.
- August 15, 2019 – Regular Council Meeting 7:00 p.m.
- September 5, 2019 – Regular Council Meeting 9:30 a.m.
- September 19, 2019 – Regular Council Meeting 7:00 p.m.

TOWN OF ONOWAY  
REGULAR COUNCIL MEETING MINUTES  
THURSDAY, MAY 16, 2019  
COUNCIL CHAMBERS OF THE ONOWAY CIVIC OFFICE

	<b>PRESENT</b>	<p>Mayor: Judy Tracy  Deputy Mayor: Lynne Tonita  Councillor: Wade Neilson  Councillor: Pat St. Hilaire</p> <p>Administration: Wendy Wildman, Chief Administrative Officer  Debbie Giroux, Recording Secretary</p>
	<b>ABSENT</b>	<p>Councillor: Jeff Mickle  Administration: Jason Madge, Public Works Manager</p>
<b>1.</b>	<b>CALL TO ORDER</b>	Mayor Judy Tracy called the meeting to order at 7:00 p.m.
<b>2.</b>	<b>AGENDA Motion #131/19</b>	<p><b>MOVED</b> by Councillor Wade Neilson that Council approve the agenda of the regular Council meeting of Thursday, May 16, 2019 with the following addition:</p> <p>7h) AUMA May 24, 2019 meeting – Support Canadian Energy Campaign at the Federation of Canadian Municipalities Conference</p> <p style="text-align: right;"><b>CARRIED</b></p>
<b>3.</b>	<b>MINUTES Motion #132/19</b>	<p><b>MOVED</b> by Deputy Mayor Lynne Tonita that the minutes of the Thursday, May 2, 2019 regular Council meeting be approved as presented.</p> <p style="text-align: right;"><b>CARRIED</b></p>
<b>4.</b>	<b>APPOINTMENTS/PUBLIC HEARINGS</b>	n/a
<b>5.</b>	<b>FINANCE Motion #133/19</b>	<p><b>MOVED</b> by Councillor Pat St. Hilaire that the May 9, 2019 Revenue and Expense Report be accepted as presented.</p> <p style="text-align: right;"><b>CARRIED</b></p>
<b>6.</b>	<b>POLICIES &amp; BYLAWS</b>	n/a
<b>7.</b>	<b>ACTION ITEMS Motion #134/19</b>	<p><b>MOVED</b> by Deputy Mayor Lynne Tonita that the Town of Onoway provide sponsorship in the amount of \$500.00 for the Entrepreneur of the Year for Community Futures Yellowhead East Lemonade Day, funded through the Council Promotional Account.</p> <p style="text-align: right;"><b>CARRIED</b></p>



TOWN OF ONOWAY  
REGULAR COUNCIL MEETING MINUTES  
THURSDAY, MAY 16, 2019  
COUNCIL CHAMBERS OF THE ONOWAY CIVIC OFFICE

<b>Motion #135/19</b>	<b>MOVED</b> by Councillor Pat St. Hilaire that the Town's 2019 sidewalk tender be awarded to Lewcon, for the tendered amount of \$119,800.00 (plus GST). <p style="text-align:right"><b>CARRIED</b></p>
<b>Motion #136/19</b>	<b>MOVED</b> by Councillor Pat St. Hilaire that the request for a Silent Auction item for the Friday, June 21, 2019 Onoway Public Library Fundraiser at the Onoway Legion be accepted for information. <p style="text-align:right"><b>CARRIED</b></p>
<b>Motion #137/19</b>	<b>MOVED</b> by Deputy Mayor Lynne Tonita that Council approve payment of the Barcol Doors invoice for \$13,398.00 to replace the fire bay door openers and that it be funded from the Fire Services Capital Reserve Account. <p style="text-align:right"><b>CARRIED</b></p>
<b>Motion #138/19</b>	<b>MOVED</b> by Councillor Wade Neilson that Council provide gold sponsorship (entry for two attendees and website naming) for the 2019 Darwell and District Agricultural Society Barnburner Event being held on Friday, August 9, 2019 in the amount of \$200.00. <p style="text-align:right"><b>CARRIED</b></p>
<b>Motion #139/19</b>	<b>MOVED</b> by Councillor Pat St. Hilaire that Council approve the attendance of those Councillors available to attend the Highway 43 East Waste Commission Annual General Meeting being held in Lac Ste. Anne County Council Chambers in Sangudo on Friday, June 21, 2019 at 1:00 p.m. <p style="text-align:right"><b>CARRIED</b></p>
<b>Motion #140/19</b>	<b>MOVED</b> by Deputy Mayor Lynne Tonita that Council approve the attendance of Council and Administration at the Alberta Urban Municipalities Association (AUMA) 2019 Summer Municipal Leaders' Caucus on Thursday, June 6, 2019 in Fort Saskatchewan. <p style="text-align:right"><b>CARRIED</b></p>
<b>Motion #141/19</b>	<b>MOVED</b> by Councillor Pat St. Hilaire that the Council meeting of Thursday, June 6, 2019 be changed to Wednesday, June 5, 2019 at 9:30 a.m. to allow Council to attend the AUMA 2019 Summer Municipal Leaders' Caucus on June 6, 2019. <p style="text-align:right"><b>CARRIED</b></p>

TOWN OF ONOWAY  
REGULAR COUNCIL MEETING MINUTES  
THURSDAY, MAY 16, 2019  
COUNCIL CHAMBERS OF THE ONOWAY CIVIC OFFICE

	<b>Motion #142/19</b>	<b>MOVED</b> by Councillor Wade Neilson that the Town of Onoway register to participate in the AUMA e-Meeting to discuss the "Support Canadian Energy Campaign at the Federation of Canadian Municipalities" being held on Friday, May 24, 2019 at 8:30 a.m.  <b>CARRIED</b>																		
<b>8.</b>	<b>COUNCIL, COMMITTEE &amp; STAFF REPORTS</b> <b>Motion #143/19</b>	<b>MOVED</b> by Councillor Wade Neilson that the verbal Council reports and the written and verbal reports from the Chief Administrative Officer be accepted for information as presented.  <b>CARRIED</b>																		
<b>9.</b>	<b>INFORMATION ITEMS</b> <b>Motion #144/19</b>	<b>MOVED</b> by Councillor Pat St. Hilaire that Council accept the following items for information as presented:  a) CPO Report for the month of April, 2019 b) Onoway Public Library Board – Chair Olsvik letter re Library Hours  <b>CARRIED</b>																		
<b>10.</b>	<b>CLOSED SESSION</b>	n/a																		
<b>11.</b>	<b>ADJOURNMENT</b>	As all matters on the agenda have been addressed, Mayor Judy Tracy declared the meeting adjourned at 8:50 p.m.																		
<b>12.</b>	<b>UPCOMING EVENTS</b>	<table border="0"> <tr> <td>June 5, 2019</td> <td>Regular Council Meeting</td> <td>9:30 a.m.</td> </tr> <tr> <td>June 20, 2019</td> <td>Regular Council Meeting</td> <td>7:00 p.m.</td> </tr> <tr> <td>July 4, 2019</td> <td>Regular Council Meeting</td> <td>9:30 a.m.</td> </tr> <tr> <td>July 18, 2019</td> <td>Regular Council Meeting</td> <td>7:00 p.m.</td> </tr> <tr> <td>August 1, 2019</td> <td>Regular Council Meeting</td> <td>9:30 a.m.</td> </tr> <tr> <td>August 15, 2019</td> <td>Regular Council Meeting</td> <td>7:00 p.m.</td> </tr> </table>	June 5, 2019	Regular Council Meeting	9:30 a.m.	June 20, 2019	Regular Council Meeting	7:00 p.m.	July 4, 2019	Regular Council Meeting	9:30 a.m.	July 18, 2019	Regular Council Meeting	7:00 p.m.	August 1, 2019	Regular Council Meeting	9:30 a.m.	August 15, 2019	Regular Council Meeting	7:00 p.m.
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\_\_\_\_\_  
Mayor Judy Tracy

\_\_\_\_\_  
Debbie Giroux  
Recording Secretary

## Debbie Giroux

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**From:** Wendy Wildman <cao@onoway.ca>  
**Sent:** May 16, 2019 10:58 AM  
**To:** 'Robin Murray'; 'Penny Frizzell'; 'Shelley Vaughan'; debbie@onoway.ca  
**Subject:** FW: Town of Onoway 2019 MAP Report  
**Attachments:** DM Whittaker letter - AR97086.pdf; Town of Onoway 2019 MAP Review.pdf

Hi everyone – further to our previous meeting, please review the attached and we will discuss again.

Deb lets put this on our next agenda, and we will attach all documents.

**Wendy Wildman**

CAO

Town of Onoway

Box 540

Onoway, AB. T0E 1V0

780-967-5338 Fax: 780-967-3226

cao@onoway.ca

**NOTE EMAIL CONTACT INFORMATION HAS CHANGED TO: [cao@onoway.ca](mailto:cao@onoway.ca)**

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**From:** Emilie Nolet <emilie.nolet@gov.ab.ca> On Behalf Of Meryl Whittaker

**Sent:** May 16, 2019 10:43 AM

**To:** cao@onoway.ca

**Cc:** Desiree Kuori <Desiree.Kuori@gov.ab.ca>

**Subject:** Town of Onoway 2019 MAP Report

Good morning,

Please see attached letter and report. No hard copy to follow.

Thank you.

Meryl Whittaker

Deputy Minister

Municipal Affairs

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail.

**Deputy Minister**  
18th Floor, Commerce Place  
10155 – 102 Street  
Edmonton, Alberta T5J 4L4  
Canada  
Telephone 780-427-4826  
Fax 780-422-9561

AR97086

May 16, 2019

Ms. Wendy Wildman  
Chief Administrative Officer  
Town of Onoway  
Box 540  
Onoway AB T0E 1V0

Dear Ms. Wildman:

Your participation and cooperation during the municipal accountability review conducted in February 2019 for the Town of Onoway is greatly appreciated. On behalf of the Minister, I have accepted the Town of Onoway Municipal Accountability Review Report as prepared by the Municipal Affairs staff who met with you. I am confident the outcomes will be beneficial for the ongoing successful administration of the town.

Attached is a copy of the report, which identifies areas of legislative compliance, as well as areas deemed to be legislatively non-compliant and requiring attention. Recommendations and resources are also offered to assist in remedying any legislative gaps. To ensure legislative gaps are addressed, please prepare a response to the report, including a plan detailing the actions to be taken to rectify these issues, and submit this response to my office within eight weeks of receiving this letter. The response must include a timeline for completion, which is not to exceed one year.

You may email your response plan to [MAP@gov.ab.ca](mailto:MAP@gov.ab.ca), or send it by mail to:  
Municipal Affairs – Municipal Services and Legislation  
Attention: Desiree Kuori  
17th floor, Commerce Place  
10155 – 102 Street  
Edmonton AB T5J 4L4

As ministry staff discussed with you during their visit, it is expected the Municipal Accountability Review report will be shared with your council as a way to build awareness of the diversity of municipal responsibilities. Municipal Affairs does not deem the report to be confidential in nature and encourages sharing the results in a public meeting to demonstrate accountability and transparency with town citizens.

.../2

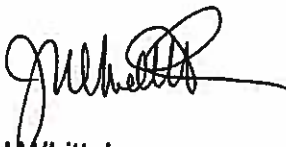
5



Municipal Affairs is committed to maintaining a collaborative working relationship with you as the Chief Administrative Officer for your municipality. We are available to help you address the non-compliant matters identified in the report and welcome your feedback on our review process.

For further information, contact Desiree Kuori, Municipal Accountability Advisor, toll-free at 310-0000, then 780-644-8528.

Sincerely,

A handwritten signature in black ink, appearing to read 'Meryl Whittaker', with a long horizontal flourish extending to the right.

Meryl Whittaker  
Deputy Minister

Attachment: Town of Onoway Municipal Accountability Review Report

cc: Honourable Kaycee Madu, Minister of Municipal Affairs  
Desiree Kuori, Municipal Accountability Advisor, Municipal Affairs



Town of Onoway  
Municipal Accountability Review Report

February 7, 2019



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## Section 1: Introduction

### 1.1 *Our Commitment*

Alberta Municipal Affairs is committed to helping to ensure Albertans live in viable municipalities with well-managed, collaborative, accountable local governments. To achieve this, Municipal Affairs plays an important role in assisting and supporting municipalities in Alberta through various programs that aim to build capacity.

The *Municipal Government Act (MGA)*, which provides the legislative framework for local government in Alberta, has numerous mandatory requirements that may at times seem overwhelming and difficult to manage for municipalities. Municipalities are also bound by other statutes and corresponding regulations that fall under the purview of Municipal Affairs. Compliance with these statutes and regulations is essential to good governance, the successful operation of a municipality and the viability, safety and well-being of a community. The Municipal Accountability Program is designed to help municipal officials successfully meet the challenges involved in responding to this wide range of legislative needs.

### 1.2 *The Municipal Accountability Program*

With a focus on promoting an environment supportive of accountable, well-managed local governments, the purpose of this program is to:

- assist municipalities in strengthening their knowledge of mandatory legislative requirements with a primary focus on the *MGA*;
- aid municipalities in achieving legislative compliance;
- support municipalities in being accountable and well-managed; and
- provide a collaborative partnership between Municipal Affairs and municipalities to address legislative discrepancies that may exist.

The Municipal Accountability Program consists of multi-year cycle reviews, ordered by the Minister under Section 571 of the *MGA*. While this program is available to all municipalities upon the request of a council and with the approval of the Minister, municipalities with populations of 5,000 or less are automatically scheduled for a visit once every four years.

In July 2018, the Minister of Municipal Affairs received from the electors of the Town of Onoway, a sufficient petition requesting an inspection into the affairs of the municipality. In response, a preliminary review was completed in October 2018 to identify the concerns and issues that led to the petition. While the concerns identified were not of sufficient severity to warrant a municipal inspection, in December 2018, the Minister decided that the town would have a municipal accountability review completed in 2019.

Working with the chief administrative officer (CAO), support is provided to mitigate any minor legislative gaps that may be identified. Ministry staff work with CAOs to validate compliance, identify gaps, provide



resource information, and develop corrective solutions where needed. The outcome of this program will be strong, well-managed municipalities and a strong collaborative relationship between the CAOs and the ministry.

The results of the Town of Onoway review, contained in this report, are offered to support the municipality's efforts in achieving its goals for ongoing legislative compliance with the *MGA* and its associated regulations, as well as other legislation under the responsibility of Alberta Municipal Affairs.



## Section 2: Executive Summary

### 2.1 Site Visit

On February 7, 2019 Municipal Affairs staff met with town administration to complete the on-site portion of the Municipal Accountability Program review, and to observe a council meeting for procedures that are required in the MGA.

The Town of Onoway is commended for their cooperation and assistance throughout the review. As well as the time commitment during the site visit, municipal staff promptly responded to questions and provided documentation as requested. Ministry staff appreciate this additional time and effort and recognizes the commitment to the well-being and success of the municipality demonstrated by town administration.

### 2.2 Strengths

Overall the review findings are very positive. Some of the general areas in which the municipality is meeting mandatory legislative requirements include:

- general matters;
- meetings;
- code of conduct bylaw;
- discretionary bylaws;
- bylaw procedures;
- public participation policy;
- financial matters;
- assessment and taxation matters;
- tax notice;
- planning matters;
- election matters; and
- emergency management.

### 2.3 Legislative Gaps

Specific areas where the municipality is required to take action to achieve compliance are included below along with the page numbers which detail the legislative requirements and the gaps to be addressed:

- signing of municipal documents ([page 14](#));
- authority to act ([page 22](#));
- voting ([page 24](#));
- pecuniary interest ([page 25](#));
- council meeting minutes ([page 26](#));
- designated officer bylaw ([page 30](#));



- property tax bylaw ([page 32](#));
- assessment review board bylaw ([page 33](#));
- bylaw enforcement officer bylaw ([page 34](#));
- procedural bylaw ([page 35](#));
- operating budget ([page 41](#));
- listing and publishing policies related to planning decisions ([page 70](#)); and
- municipal library board ([page 83](#)).

## 2.4 Next Steps

This report contains a complete summary of the Municipal Accountability Program review including legislative requirements, comments and observations, recommendations for actions, as well as links to resources to assist the municipality.

A response by the municipality is required that includes a plan detailing the actions to be taken to rectify the legislative gaps identified in this report. This response must be submitted to Municipal Affairs within eight weeks of receiving this report. For your municipality's convenience, this report has been formatted to provide space in each section for responses to the findings on each particular area of non-compliance. However, your municipality is not required to use this report to provide its responses, and may prefer instead to develop a customized document for the responses and implementation plan.

Ministry staff are available to provide support and additional resources to guide the municipality through the development of the plan and to successfully address the legislative gaps identified. The review will formally conclude upon receipt of documentation confirming that all items have been addressed.



## Section 3: Municipal Accountability Review Findings

### 3.1 General

#### 1. Municipal Office

LEGISLATIVE REQUIREMENTS: MGA 204

1. Has council named a place as its municipal office?

COMMENTS/OBSERVATIONS: Council resolution 408/18, passed October 18, 2018, names 4812 – 51 Street, Onoway, Alberta as the location of the municipal office.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



## 2. Orientation Training

LEGISLATIVE REQUIREMENTS: MGA 201.1

1. How was orientation training offered to the elected officials following the 2017 general election and any subsequent byelections?
2. Were the following topics covered:
  - role of municipalities in Alberta;
  - municipal organization and functions;
  - key municipal plans, policies and projects;
  - roles and responsibilities of council, councillors, the CAO, and staff;
  - code of conduct;
  - budgeting and financial administration; and
  - public participation?

COMMENTS/OBSERVATIONS: Council resolution 323/17, passed November 16, 2017, authorizes all councillors to attend Munis 101, and all of council attended the session.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



**3. Chief Administrative Officer Evaluation**

LEGISLATIVE REQUIREMENTS: MGA 205.1

1. Has council provided the CAO with an annual written performance evaluation?

COMMENTS/OBSERVATIONS: Formal written CAO evaluations are being completed by council annually.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ ACTION ITEMS: No action required.

RESOURCES: Not applicable.



**4. Provision of Information**

LEGISLATIVE REQUIREMENTS: *MGA 153.1*

1. When information regarding the operation or administration of the municipality is requested by a councillor, how does the CAO provide information to all of council as soon as practical?

COMMENTS/OBSERVATIONS: The CAO is aware of the *MGA* requirements. Council was provided with an agenda package in advance of the February 7, 2019 council meeting. The CAO provided a written report to council that was supplemented with additional verbal updates, as well as providing procedural guidance throughout the council meeting.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



## 5. Signing of Municipal Documents

### LEGISLATIVE REQUIREMENTS: MGA 213

1. Are the minutes of council meetings signed by:
  - the person presiding at the meeting; and
  - a designated officer?
2. Are the bylaws of a municipality signed by:
  - the chief elected official; and
  - a designated officer?
3. Are agreements, cheques, and other negotiable instruments signed by:
  - the chief elected official or another person authorized by council, and by a designated officer; or
  - by a designated officer acting alone if so authorized by council?

**COMMENTS/OBSERVATIONS:** Meeting minutes and bylaws that were reviewed are appropriately signed by the mayor, and a designated officer. Agreements and cheques are signed by the mayor and CAO. The CAO has been informally delegated the responsibility to sign small administrative contracts or agreements if supported in the annual budget; however, no formal policy delegating that authority is in place.

**MEETS LEGISLATIVE REQUIREMENTS:** No

**RECOMMENDATIONS/ACTION ITEMS:** To be compliant with section 213 of the MGA, a resolution or policy passed by council, delegating authority to a designated officer to sign agreements, should be in place.

**RESOURCES:** Municipal Affairs Advisors are available to provide general support by calling toll-free 310-0000 and then 780-427-2225.

Municipal Affairs has developed resources to assist municipalities with the writing of minutes and passing bylaws:

- [The preparation of meeting minutes for council.](#)
- [Basic Principles of Bylaws.](#)

**MUNICIPAL RESPONSE:** Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.



**6. Repair of Roads, Public Places, and Public Works (For discussion only)**

**LEGISLATIVE REQUIREMENTS: MGA 532**

Each municipality must ensure that every road or other public place that is subject to the direction, control and management of the municipality, including all public works in, on or above the roads or public place put there by the municipality or by any other person with the permission of the municipality, are kept in a reasonable state of repair by the municipality, having regard to:

- the character of the road, public place or public work; and
- the area of the municipality in which it is located.

1. Is the municipality aware of this section?
2. What does the municipality do to support this requirement?
3. Is the above supported through the annual budget?
4. Is the municipality aware of the level of risk and liability if the municipality fails to perform its duty outlined in section 532?

**COMMENTS/OBSERVATIONS:** The town is aware of the responsibilities under section 532 of the MGA and has policies and plans in place which are reflected in the annual budget. Any municipal policies and practices discussed, were not reviewed. In the event the policies and practices establish specific service levels, it may be appropriate to review the service levels and seek the necessary advice to ensure that the service levels are appropriate, and are being followed.

**MEETS LEGISLATIVE REQUIREMENTS:** Yes

**RECOMMENDATIONS/ACTION ITEMS:** No action required.

**RESOURCES:** Not applicable.





### 3.2 Meetings

#### 1. Public Presence at Meetings

LEGISLATIVE REQUIREMENTS: MGA 197 (1)

1. Are council and council committee meetings held in public?

COMMENTS/OBSERVATIONS: Meetings of council, including regular council meetings, strategic planning, and budget meetings, are advertised to the public and open for members of the public to attend.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



## 2. Closed Meetings

LEGISLATIVE REQUIREMENTS: MGA 197

1. Before closing all or a part of a meeting to the public:
  - Is a resolution passed to indicate what part of the meeting is to be closed?
  - Does the resolution identify what exception to disclosure under the *Freedom of Information and Protection of Privacy Act (FOIPP)* applies to the part of the meeting that is to be closed?
  - Are members of the public notified once the closed portion of the meeting is concluded?
2. Do the council meeting minutes record the names of those who attended the closed meeting and the reason for their attendance?

COMMENTS/OBSERVATIONS: Council did not have a closed session at the council meeting that was observed on February 7, 2019. A selection of 2018 and 2019 council meeting minutes reviewed recording the procedure to move in and out of a closed session met the legislative requirements (i.e., council resolution 80/18).

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



### 3. Organizational Meeting

LEGISLATIVE REQUIREMENTS: MGA 152, 192

1. Is an Organizational Meeting held annually?
2. Is a chief elected officer (CEO) appointed (not a requirement if the CEO is elected at large or it is included in the procedural bylaw)?
3. Is a Deputy CEO appointed?

COMMENTS/OBSERVATIONS: Council held their last organizational meeting on October 18, 2018, within two weeks of the third Monday in October, which is in accordance with section 192 of the MGA. The mayor and deputy mayor were appointed, meeting dates and times were approved, and council appointments to boards and committees were made.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



#### 4. Special Meetings

LEGISLATIVE REQUIREMENTS: MGA 194

1. Has a special council meeting been held?
2. Was the proper notification provided to the public?
3. If less than 24 hours was provided as notification, was the appropriate documentation signed by two-thirds of council?
4. Was there a need to change the agenda for the special meeting?
5. If the agenda was modified, was all of council present at the meeting to approve the change?

COMMENTS/OBSERVATIONS: Council has not held a special meeting in the past several years.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



## 5. Meetings Through Electronic Communications

LEGISLATIVE REQUIREMENTS: MGA 199

1. Has notice been provided to the public, including the way in which the meeting is to be conducted?
2. Do the facilities enable the public to watch or listen to the meeting?
3. Was a designated officer in attendance at the facility?
4. Do the facilities enable the meeting's participants to watch or hear each other?

COMMENTS/OBSERVATIONS: The town has had councillors use electronic means for participating in council meetings. The facilities allow the public and the meeting participants to hear each other. The town notifies the public that the councillor(s) will be participating electronically on the agenda, or if short notice has been provided, an announcement is made prior to the commencement of the meeting.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



**6. Regular Meeting Change Notice**

LEGISLATIVE REQUIREMENTS: MGA 193

1. Has the date, time or place of a regularly scheduled meeting been changed?
2. Was at least 24 hours' notice of the change provided to any councillors not present at the meeting at which the change was made, and to the public?

COMMENTS/OBSERVATIONS: Council resolution 20/18, passed January 18, 2018, changed the regularly scheduled meeting of council from February 15, 2018 to February 14, 2018.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



### 3.3 Meeting Procedures

#### 1. Authority to Act

LEGISLATIVE REQUIREMENTS: MGA 180-181

1. Are resolutions or bylaws passed in an open public meeting?

COMMENTS/OBSERVATIONS: At the February 7, 2019 council meeting, there were decisions of council not formalized through a resolution. Examples of this occurred when, without a resolution, council determined the scheduling of upcoming budget meetings.

MEETS LEGISLATIVE REQUIREMENTS: No

RECOMMENDATIONS/ACTION ITEMS: All decisions of council must be formalized through a council resolution or bylaw, that is passed in an open public meeting, with a quorum present.

RESOURCES: Municipal Affairs Advisors are available to provide general support by calling toll-free 310-0000 and then 780-427-2225.

MUNICIPAL RESPONSE: Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.



**2. Quorum**

LEGISLATIVE REQUIREMENTS: *MGA 167*

1. Is a majority of council present at the meeting to exercise their authority to act under sections 180 and 181?

COMMENTS/OBSERVATIONS: Town council consists of five elected officials. The minutes that were reviewed, and the council meeting that was observed met the quorum requirements.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.





**3. Voting**

**LEGISLATIVE REQUIREMENTS: MGA 182-185**

1. Does each councillor participate in voting (unless an abstention is required or permitted and is noted)?
2. Is an abstention from voting recorded in the minutes?
3. Is the request for a recorded vote done prior to the vote being taken?

**COMMENTS/OBSERVATIONS:** The voting documented in the council meeting minutes met the legislative requirements; however, at the council meeting that was observed on February 7, 2019, the chair's votes were not always visible; therefore, it was not visibly demonstrated that the chair voted. There were no abstentions and no requests for recorded votes.

**MEETS LEGISLATIVE REQUIREMENTS: No**

**RECOMMENDATIONS/ACTION ITEMS:** All elected officials present at a council meeting must vote on a matter put to a vote. The method of voting should be in such a way that is visible to the public unless the councillor is required or permitted to abstain from voting, such as a pecuniary interest.

**RESOURCES:** Municipal Affairs Advisors are available to provide general support by calling toll-free 310-0000 and then 780-427-2225.

**MUNICIPAL RESPONSE:** Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.



#### 4. Pecuniary Interest

LEGISLATIVE REQUIREMENTS: MGA 172

1. When a pecuniary interest is declared:

- is the general nature of the pecuniary interest disclosed;
- has the councillor abstained from voting on any question relating to the matter
- has the councillor abstained from any discussion on the matter if applicable; and
- has the councillor left the room if applicable?

COMMENTS/OBSERVATIONS: In the meeting minutes of May 17, 2018, a councillor declared a potential pecuniary interest, and removed themselves from the meeting. The declaration did not note the general nature of the pecuniary interest.

MEETS LEGISLATIVE REQUIREMENTS: No

RECOMMENDATIONS/ACTION ITEMS: All elected officials present at a council meeting must vote on a matter put to a vote unless the councillor is required or permitted to abstain from voting. The declaration of a 'potential' pecuniary interest does not meet the requirements of the MGA. In addition, the general nature of the pecuniary interest must be disclosed, and must be recorded in the minutes in accordance with section 172 (a) of the MGA.

RESOURCES: Municipal Affairs has prepared a document that describes pecuniary interest, exceptions and the procedures for disclosure: [Pecuniary Interest](#)

MUNICIPAL RESPONSE: Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.

## 5. Council Meeting Minutes

LEGISLATIVE REQUIREMENTS: MGA 172, 184, 185, 197, 208, 230

1. Are the minutes recorded in the English language without note or comment?
2. Do the minutes include the names of the councillors present at the council meeting?
3. Are the minutes given to council for adoption at a subsequent council meeting?
4. Are recorded votes documented?
5. Are disclosures of councillor pecuniary interest recorded in the minutes?
6. Are abstentions from public hearings recorded?
7. Are the minutes recorded in accordance with section 230 of the MGA when a public hearing is held?
8. Are the minutes kept safe?

COMMENTS/OBSERVATIONS: The council meeting minutes reviewed document the names of councillors present, and minutes of previous meetings are reviewed and approved by a resolution of council. Minutes are kept in a safe location at the town office. A recorded vote occurred at the June 21, 2018 council meeting for council resolution 260/18, and the legislative requirements were met. The review of minutes also noted the following items:

- The minutes contained minimal comments documenting the coming and going of members of the public in attendance.
- On August 16, 2018, the town held a public hearing for bylaw 746-18 (land use bylaw amendment). The public hearing was not held during a regular council meeting or through a special meeting, which is a contravention of sections 230(2)(b) and 230(6) of the MGA.

MEETS LEGISLATIVE REQUIREMENTS: No

RECOMMENDATIONS/ACTION ITEMS: Moving forward, public hearings must be conducted in accordance with section 230(2)(b) of the MGA, which states that public hearings must be conducted during a regular or special meeting. Additionally, the minutes are to be documented in accordance with the requirements of section 208(1)(a) of the MGA, without note or comment.

RESOURCES: Municipal Affairs Advisors are available to provide general support by calling toll-free 310-0000 and then 780-427-2225. In addition, Municipal Affairs provides the following resource to assist CAOs in the preparation of council meeting minutes: [The Preparation of Meeting Minutes for Council \(Municipal Affairs\)](#)



**MUNICIPAL RESPONSE:** Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.

### 3.4 Mandatory Bylaws

#### 1. Code of Conduct

LEGISLATIVE REQUIREMENTS: MGA 146.1, Code of Conduct for Elected Officials Regulation 200/2017

1. Is there a code of conduct bylaw?
2. Does the bylaw apply to all councillors equally?
3. Are there sanctions for breaching the code of conduct?
4. Does the bylaw include the following topics:
  - representing the municipality;
  - communicating on behalf of the municipality;
  - respecting the decision-making process;
  - adherence to policies, procedures and bylaws;
  - respectful interactions with councillors, staff, the public and others;
  - confidential information;
  - conflicts of interest;
  - improper use of influence;
  - use of municipal assets and services; and
  - orientation and other training attendance?
5. Has a complaint system been established within the bylaw?
6. Does the complaint system address:
  - who may make a complaint alleging a breach of the code of conduct;
  - the method by which a complaint may be made;
  - the process to be used to determine the validity of a complaint; and
  - the process to be used to determine how sanctions are imposed if a complaint is determined to be valid?
7. Has the code of conduct been reviewed in the last four years? (Not applicable until 2022.)

COMMENTS/OBSERVATIONS: The town passed a code of conduct bylaw (bylaw 744-18), on June 21, 2018, and the legislative requirements are met.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



## 2. Establishment of the Chief Administrative Officer Position

LEGISLATIVE REQUIREMENTS: MGA 205

1. Is there a bylaw establishing the position of CAO?
2. Is there a council resolution that appoints the current CAO?

COMMENTS/OBSERVATIONS: Bylaw 600-03, passed April 22, 2003, establishes the position of CAO for the Town of Onoway. At the 2018 organizational meeting, council passed resolution 401/18 that appoints the CAO by name.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



**3. Designated Officers**

LEGISLATIVE REQUIREMENTS: MGA 210, 284.2, 456.1, 627.1(3)

1. Are the following designated officer positions established by bylaw:
  - a. municipal assessor;
  - b. assessment review board clerk; and
  - c. subdivision and development appeal board clerk?
2. Are there any other designated officer positions and is there a bylaw to establish these positions?

COMMENTS/OBSERVATIONS: There are no bylaws establishing the assessor, assessment review board clerk, or the subdivision and development appeal board clerk as designated officers.

MEETS LEGISLATIVE REQUIREMENTS: No

RECOMMENDATIONS/ACTION ITEMS: The following positions must be established as designated officers by bylaw:

- assessor;
- assessment review board clerk; and
- subdivision and development appeal board clerk.

RESOURCES: Municipal Affairs Advisors are available to provide general support by calling toll-free 310-0000 and then 780-427-2225.

MUNICIPAL RESPONSE: Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.

#### 4. Borrowing Bylaw(s)

LEGISLATIVE REQUIREMENTS: MGA 251-259, Debt Limit Regulation 255/2000

1. Is there a current borrowing bylaw?
2. Does the borrowing bylaw set out:
  - the amount of money to be borrowed and, in general terms, the purpose for which the money is borrowed;
  - the maximum rate of interest, the term and the terms of repayment of the borrowing; and
  - the source or sources of money to be used to pay the principal and interest owing under the borrowing?
3. Was the borrowing bylaw advertised (if required)?

COMMENTS/OBSERVATIONS: A short term capital borrowing (bylaw 742-18-(2018)) was reviewed. It set out the source, amount, term, interest, and how the loan would be repaid, which is in accordance with the legislation. There was no requirement to advertise this bylaw.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.





**5. Property Tax Bylaw**

**LEGISLATIVE REQUIREMENTS: MGA 353-359, Matters Relating to Assessment Sub-classes Regulation 202/2017**

1. Is a property tax bylaw passed annually?
2. Are the rates in accordance with the:
  - assessment class (section 297);
  - Matters Relating to Assessment Sub-classes Regulation; and
  - municipal assessment sub-class bylaw (if required)?
3. Does the tax rate bylaw maintain a maximum 5:1 tax ratio between residential and non-residential assessment classes?
4. Are the requisitions accounted for?
5. Are the calculations correct?
6. Is there a minimum tax applied as per section 357?

**COMMENTS/OBSERVATIONS:** The town passes a tax bylaw annually, and the 2018 property tax bylaw was passed on May 1, 2018 (bylaw 741-18). Section 357(1) of the MGA states "...the property tax bylaw may specify a minimum amount payable as property tax." The position of Municipal Affairs is only one minimum tax within the property tax bylaw is permitted. There are two minimum taxes within the town's property tax bylaw.

**MEETS LEGISLATIVE REQUIREMENTS:** No

**RECOMMENDATIONS/ACTION ITEMS:** Moving forward, only one minimum tax rate may be specified within the tax rate bylaw.

**RESOURCES:** Municipal Affairs Financial Advisors are available to provide financial support by calling toll-free 310-0000 and then 780-427-2225. In addition, Municipal Affairs has created an example tax bylaw to assist municipalities when developing their annual property tax bylaw: [Example Property Tax Bylaw](#).

**MUNICIPAL RESPONSE:** Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.



**6. Assessment Review Boards**

**LEGISLATIVE REQUIREMENTS: MGA 454-456, Matters Relating to Assessment Complaints Regulation 201/2017**

1. Has a local assessment review board been established?
  - Are three members appointed to this board?
  - Is the term of the appointment established?
  - Have the appointed members received the mandatory training?
2. Is a composite assessment review board established?
  - Are two members appointed to this board?
  - Is the term of the appointment established?
  - Have the appointed members received the mandatory training?
  - Is there a current assessment review board clerk appointment?
3. Has a designated officer been appointed as the clerk and received the mandatory training?

**COMMENTS/OBSERVATIONS:** Bylaw 474-95, passed September 11, 1995, establishes an assessment review board for the Town of Onoway. The bylaw does not establish a local assessment review board (LARB) or a composite assessment review board (CARB). The town has an agreement with Lac Ste. Anne County to provide assessment review board services; however, the requirement to establish the two boards still remains. The municipality may also consider jointly establishing these boards with the county.

**MEETS LEGISLATIVE REQUIREMENTS:** No

**RECOMMENDATIONS/ACTION ITEMS:** A LARB and a CARB must be established by bylaw. The bylaw should address member appointments and terms or delegations. A designated officer must be appointed as clerk, and all active members including the clerk must have the mandatory training prior to hearing an appeal.

**RESOURCES:** Municipal Affairs has developed an FAQ to assist municipalities with respect to Assessment Review Boards. In addition, Municipal Affairs Assessment Advisors are available to provide general support by calling toll-free 310-0000 and then 780-422-1377.

**MUNICIPAL RESPONSE:** Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.



**7. Bylaw Enforcement Officers**

LEGISLATIVE REQUIREMENTS: MGA 555-556

- 3. Is there a municipal bylaw enforcement officer appointed?
- 4. Is there a bylaw to support this?
- 5. Are the powers and duties established within the bylaw for the bylaw enforcement officer?
- 6. Does the bylaw include:
  - disciplinary procedures;
  - penalties; and
  - an appeal process?
- 7. Has the bylaw enforcement officer taken the official oath?

COMMENTS/OBSERVATIONS: The town has entered into an agreement with the Town of Mayerthorpe for community peace officer services, which enforces provincial legislation as well as municipal bylaws. The agreement provides that the Town of Mayerthorpe manages the service. Bylaw 544-99 establishes the powers and duties, disciplinary procedures for misuse of power including penalties, and an appeal process for the bylaw enforcement officer. However, through the agreement, the Town of Mayerthorpe’s bylaw enforcement officer bylaw prevails. In order for a municipality’s bylaw to apply outside of its boundaries, both municipalities must pass a bylaw to approve the agreement.

MEETS LEGISLATIVE REQUIREMENTS: No

RECOMMENDATIONS/ACTION ITEMS: Bylaw 544-99 must either be replaced or amended to approve the existing agreement with the Town of Mayerthorpe, and to comply with section 12(a) of the MGA.

RESOURCES: Municipal Affairs Advisors are available to provide general support by calling toll-free 310-0000 and then 780-427-2225.

MUNICIPAL RESPONSE: Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.



### 3.5 Discretionary Bylaws

Please note: Discretionary bylaws are not required in the MGA. The following section includes a random selection of optional bylaws to review that their contents are in compliance with the MGA.

#### 1. Procedural Bylaw

LEGISLATIVE REQUIREMENTS: MGA 145

1. Does the municipality have a procedural bylaw?

COMMENTS/OBSERVATIONS: The town passed bylaw 745-18 on June 21, 2018. This bylaw addresses meetings of council, conduct of meetings, agenda and order of business, and parliamentary procedures. Section 20 of the bylaw provides that 'councillors may abstain from voting on minutes of meetings they did not attend, and the minutes shall duly record the abstention from voting and the reason why the councillor abstained'. This contravenes section 183 of the MGA in that councillors must vote on a matter put to a vote at a meeting unless the councillor is required or permitted to abstain from voting under this or any other enactment. An enactment does not include a municipal bylaw.

MEETS LEGISLATIVE REQUIREMENTS: No

RECOMMENDATIONS/ACTION ITEMS: Bylaw 745-18 must be repealed and replaced, or amended to ensure compliance with section 183 of the MGA.

RESOURCES: Municipal Affairs Advisors are available to provide general support by calling toll-free 310-0000 and then 780-427-2225.

MUNICIPAL RESPONSE: Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.

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## 2. Fees and Charges Bylaw

LEGISLATIVE REQUIREMENTS: MGA 7

1. Does the municipality have a Fees and Charges bylaw?

COMMENTS/OBSERVATIONS: At the December 20, 2018 council meeting, council passed bylaw 753-18 to establish the fees and charges bylaw. The bylaw was properly passed by three readings, and the content within the bylaw met the requirements of the MGA.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



### 3. Tax Penalty Bylaw

LEGISLATIVE REQUIREMENTS: MGA 344-346

2. Does the municipality have a Tax Penalty bylaw?

COMMENTS/OBSERVATIONS: Council passed bylaw 704-11 to establish a penalty structure for non payment of current and arrears taxes. The other content within the bylaw met the requirements of the MGA.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



### 3.6 Bylaw Procedures

#### 1. Passing Bylaws

LEGISLATIVE REQUIREMENTS: MGA 187-189

1. Are bylaws given three distinct and separate readings?
2. If all readings are conducted at one council meeting, is there a resolution passed that gives unanimous consent for this?

COMMENTS/OBSERVATIONS: A review of a selection of past council minutes indicates the proper process of three readings of bylaws, including a resolution passed unanimously giving consent before proceeding to third reading, has occurred (e.g., council resolutions 323/18-326/18).

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



## 2. Bylaw Revisions and Amendments

LEGISLATIVE REQUIREMENTS: **MGA 63-69, 191, and 692**

1. Are revision bylaws limited to:
  - consolidation of two or more bylaws;
  - altering citation; and
  - changes that do not materially affect a bylaw (clerical, technical, grammatical, or typographical)?
2. Does the title of the bylaw indicate that it is a revision bylaw?
3. Has the CAO certified the revision prior to the first reading?
4. How are schedules to bylaws amended (e.g., fees charges or rate schedules)?
5. Have there been amendments to a bylaw that initially required advertising?
6. Was the amending bylaw advertised?
7. Are bylaws amended or repealed in the same way as the original bylaw was enacted?

COMMENTS/OBSERVATIONS: Bylaw 746-18 amended the town's land use bylaw and the legislative requirements were met, including the notice. A public hearing was held; however, it was not held in accordance with section 230 of the MGA. This was noted in section 3.3.5 of this report (Council meeting minutes).

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



### 3.7 Mandatory Policies

#### 1. Public Participation Policy

LEGISLATIVE REQUIREMENTS: MGA 216.1, Public Participation Policy Regulation 193/2017

1. Has a public participation policy been passed?
2. Does the policy identify:
  - types or categories of approaches the municipality will use to engage the public; and
  - types and categories of circumstances in which the municipality will engage with the public?
3. Is the public participation policy available for public inspection?
4. Has the public participation policy been reviewed by council in the last four years? (Not applicable until summer of 2022.)

COMMENTS/OBSERVATIONS: The town passed Public Participation Policy No. C-COU-PAR-1, on June 21, 2018 (council resolution 245/18). The policy includes the required information, and is available on the town website.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ ACTION ITEMS: No action required.

RESOURCES: Not applicable.

### 3.8 Finance

#### 1. Operating Budget

LEGISLATIVE REQUIREMENTS: MGA 242, 243, 244, 248.1

1. Has an operating budget been adopted for each calendar year?
2. Does the operating budget include the estimated amount of each of the following expenditures and transfers:
  - the amount needed to provide for the council's policies and programs;
  - the amount needed to pay the debt obligations in respect of borrowings made to acquire, construct, remove or improve capital property;
  - the amount of expenditures and transfers needed to meet the municipality's obligations as a member of a growth management board, or its obligations for services funded under an intermunicipal collaboration framework (not applicable until April 1, 2020);
  - the amount needed to meet the requisitions or other amounts that the municipality is required to pay under an enactment;
  - if necessary, the amount needed to provide for a depreciation or depletion allowance, or both, for its municipal public utilities as defined in section 28;
  - the amount to be transferred to reserves;
  - the amount to be transferred to the capital budget; and
  - the amount needed to recover any shortfall as required under section 244?
3. Does the operating budget include estimated amounts of each source of revenue (taxes, grants, service fees)?
4. Are the estimated revenues and transfers sufficient to pay the estimated expenditures?
5. Does the budget align with the property tax rate bylaw?

**COMMENTS/OBSERVATIONS:** The 2018 operating budget was adopted on May 1, 2018, by council resolution 161/18, and met legislative requirements. The interim operating budget for 2019 was passed by council resolution 006/19 on January 10, 2019. It is important to note that a municipality may only expend funds if they are included in an adopted budget, in an interim budget, or are for an emergency or are legally required to be paid; therefore, no funds in 2019 were to be expended until after January 10, 2019.

**MEETS LEGISLATIVE REQUIREMENTS:** No

**RECOMMENDATIONS/ACTION ITEMS:** An interim budget must be passed prior to January 1 for the next fiscal year if the operating budget has not been passed prior to January 1.

**RESOURCES:** Municipal Affairs Financial Advisors are available to provide general financial support by calling toll-free 310-0000 and then 780-427-2225.



### 3. Financial Records and Receipts

LEGISLATIVE REQUIREMENTS: MGA 268.1

1. Are accurate records and accounts kept of the municipality's financial affairs?
2. Are actual revenues and expenditures of the municipality, compared with the estimates, reported to council? Resolution? Financial policies approved by council
3. Are revenues of the municipality collected and controlled, and receipts issued in the manner directed by council?

COMMENTS/OBSERVATIONS: The town uses Muniware Software, and financial records reviewed met the requirements set out in section 268.1. All revenues, including cash, are collected at the municipal office. Administration presents budget to actual reports to council each month.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable



#### 4. Municipal Accounts

LEGISLATIVE REQUIREMENTS: MGA 270

1. Is all money belonging to or held by the municipality deposited into a financial institution designated by council?

COMMENTS/OBSERVATIONS: ATB Financial provides banking services to the town, and banking records reviewed confirm that ATB holds the municipality's financial assets. Council resolution 398/18 was passed at the organizational meeting, designating ATB Financial as the town's financial institution.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ ACTION ITEMS: No action required.

RESOURCES: Not applicable.



## 5. Fidelity Bond

LEGISLATIVE REQUIREMENTS: MGA 212.1

1. Does the municipality annually obtain a fidelity bond or equivalent insurance?
2. Does the bond or insurance cover:
  - the CAO of the municipality;
  - the designated officers of the municipality; and
  - other employees of the municipality?

COMMENTS/OBSERVATIONS: The town has insurance through AMSC Insurance Services Ltd. All legislative requirements reviewed were met.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



## 6. Auditor, Audited Financial Statements, Auditor Report

LEGISLATIVE REQUIREMENTS: MGA 276, 280, 281

1. Has one or more auditors for the municipality been appointed?
2. Are annual financial statements of the municipality prepared for the immediately preceding year?
3. Do the financial statements include:
  - the municipality's debt limit; and
  - the amount of the municipality's debt as defined in the regulations under section 271?
4. Are the financial statements, or a summary of them, and the auditor's report on the financial statements available to the public in the manner the council considers appropriate by May 1 of the year following the year for which the financial statements have been prepared?
5. Has council received the auditor's report on the annual financial statements and financial information return of the municipality?

COMMENTS/OBSERVATIONS: The auditor was appointed by council resolution 399/18. The auditor presented the audited financial statements at the April 5, 2018 council meeting, and the 2017 financial statements were approved by council resolution 138/18. The statements are made available on the town's website.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



## 7. Salary and Benefits

LEGISLATIVE REQUIREMENTS: MGA 217, Supplementary Accounting Principles and Standards Regulation 313/2000

1. Has information been provided on the salaries of councillors, the chief administrative officer and all designated officers (including the assessor, SDAB clerk and assessment review board clerk) of the municipality?

COMMENTS/OBSERVATIONS: Information is contained within the annual financial statements, and made available upon request. Moving forward, the disclosure should include the assessor, the assessment review board clerk, and the clerk of the subdivision and development appeal board once these positions are established as designated officers.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ ACTION ITEMS: No action required.

RESOURCES: Not applicable.



**8. Management Letter**

LEGISLATIVE REQUIREMENTS: MGA 281

1. Has council received a separate auditor's report on any improper or unauthorized transaction or non-compliance with this or another enactment or a bylaw that is noted during the course of an audit?

COMMENTS/OBSERVATIONS: The town received confidential recommendations from the auditor.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ ACTION ITEMS: No action required.

RESOURCES: Not applicable.





### 9. Three-Year Operating Plan and Five-Year Capital Plan (for discussion only)

LEGISLATIVE REQUIREMENTS: MGA 283.1, Municipal Corporate Planning Regulation 192/2017

1. Each municipality must prepare a written plan respecting its anticipated financial operations over a period of at least the next three financial years. Also, each municipality must prepare a written plan respecting its anticipated capital property additions over a period of at least the next five financial years. The first financial plans will need to be prepared by the end of 2019 and cover the 2020 to 2022 financial, or 2020 to 2024 capital period.

COMMENTS/OBSERVATIONS: The municipality is aware that written plans for financial operations and capital plans are a new legislative requirement. The municipality must prepare a three-year written plan for financial operations and a five-year written plan for capital property, and these plans must be in place by 2020.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: Plans must be in place the 2020 deadline.

RESOURCES: Municipal Affairs has created a guide to assist municipalities getting started with multi-year financial planning: [New Legislative Requirements for Municipal Financial & Capital Plans](#).



### 3.9 Assessment and Taxation

#### 1. Assessment Roll

LEGISLATIVE REQUIREMENTS: MGA 284.2(1), 307

1. Has a person who has the qualifications as set out in the Municipal Assessor Regulation 347/2009 been appointed to the position of designated officer to carry out the functions of a municipal assessor?
2. Is the assessment roll available for inspection?
3. Is there a fee for this?
4. Does the municipality have a bylaw to establish this fee?

COMMENTS/OBSERVATIONS: Council resolution 400/18, appointing the assessor for the town, was passed at the 2018 organizational meeting. The assessment roll is made available upon request, and there is no fee established. It is noted in section 3.4.3 of this report that the municipal assessor must be established as a designated officer position.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ ACTION ITEMS: No action required.

RESOURCES: Not applicable.

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## 2. Tax Roll

LEGISLATIVE REQUIREMENTS: MGA 327, 329

1. Has an annual tax roll been prepared for the municipality?
2. Does the tax roll include the following:
  - a description sufficient to identify the location of the property or business;
  - name and mailing address of the taxpayer;
  - the assessment;
  - the name, tax rate, and amount of each tax imposed in respect of the property or business;
  - the total amount of all taxes imposed in respect of the property or business;
  - the amount of tax arrears; and
  - if the property is subject to an agreement between the taxpayer and the municipality (section 347 or 364)?

COMMENTS/OBSERVATIONS: An annual tax roll has been completed, and contains the required legislated content.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



### 3. Content of Tax Notices

LEGISLATIVE REQUIREMENTS: MGA 334, 460

1. Does the municipality provide for a combined property assessment and tax notice?
2. Does the municipal property tax notice show the following:
  - the same information that is required to be shown on the tax roll;
  - the date the tax notice is sent to the taxpayer;
  - the amount of the requisitions, any one or more of which may be shown separately or as part of a combined total;
  - except when the tax is a property tax, the date by which a complaint must be made, which date must not be less than 30 days after the tax notice is sent to the taxpayer;
  - the name and address of the designated officer with whom a complaint must be filed;
  - the dates on which penalties may be imposed if the taxes are not paid; and
  - information on how to request a receipt for taxes paid?

COMMENTS/OBSERVATIONS: The town provides for a combined tax and assessment notice, and the legislative requirements reviewed have been met

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.

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#### 4. Prepare Tax Notices

LEGISLATIVE REQUIREMENTS: MGA 333

1. Are tax notices prepared annually for all taxable property and businesses shown on the tax roll of the municipality?
2. Are the tax notices sent to the taxpayers?

COMMENTS/OBSERVATIONS: Tax notices are prepared annually, and sent to taxpayers in accordance with MGA requirements.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ ACTION ITEMS: No action required.

RESOURCES: Not applicable.



**5. Certify Date of Mailing**

LEGISLATIVE REQUIREMENTS: MGA 335, 336

1. Has a designated officer certified the date the tax notices were sent?
2. Have the tax notices been sent before the end of the year in which the taxes were imposed?

COMMENTS/OBSERVATIONS: The town provided certification of the date tax notices were sent in the local newspaper.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



## 6. Tax Arrears List

LEGISLATIVE REQUIREMENTS: MGA 412, 436.03

1. Has a tax arrears list been prepared showing the parcels of land in the municipality in respect of which there are tax arrears?
2. Has the list been sent to the Registrar and to the Minister responsible for the *Unclaimed Personal Property and Vested Property Act*?
3. Has the list been posted in a place that is accessible to the public during regular business hours?
4. Were persons notified who are liable to pay the tax arrears that a tax arrears list has been prepared and sent to the Registrar?

COMMENTS/OBSERVATIONS: The town prepared the tax arrears list, and submitted it to the registrar in advance of the March 31 due date. The list has been publicly posted in the front foyer of the municipal office, and the proper notifications were made to persons liable to pay.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



## 7. Tax Sale

LEGISLATIVE REQUIREMENTS: MGA 418, 436.08

1. Have those properties appearing on the tax arrears list been offered for sale within the time frame provided?
2. Is there a folder for tax sale?
3. Review all arrears info to determine if should be a sale

COMMENTS/OBSERVATIONS: Tax arrears balances have been brought up to date; therefore, the town has not been required to conduct a tax sale recently. In the event that the town encounters a tax sale, the following resource has been provided.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ ACTION ITEMS: No action required.

RESOURCES: Municipal Affairs Advisors are available to provide general support by calling toll-free 310-0000 and then 780-422-1377. In addition, Municipal Affairs has developed a resource for assisting municipalities in [A Guide to Tax Recovery in Alberta.](#)





### 3.10 Planning

#### 1. Subdivision Authority

LEGISLATIVE REQUIREMENTS: MGA 623, 625-626

1. Is there a bylaw establishing the subdivision authority for the municipality?
2. Does the structure of the subdivision authority comply with section 623(2) which specifies that it may include one or more of the following:
  - any or all members of council;
  - a designated officer;
  - a municipal planning commission;
  - any other person or organization?

COMMENTS/OBSERVATIONS: The subdivision authority has been established through bylaw 624-05, and is structured as the municipal council for the town. In addition, bylaw 712-13, the land use bylaw, reiterates the subdivision authority structure. At the 2018 organizational meeting, council appointed all of council to the subdivision authority.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



## 2. Development Authority

LEGISLATIVE REQUIREMENTS: MGA 624, 625 - 626

1. Is there a bylaw establishing the development authority for the municipality?
2. Does the structure of the development authority comply with section 624(2) which specifies that it may include one or more of the following:
  - a designated officer;
  - a municipal planning commission;
  - any other person or organization?

COMMENTS/OBSERVATIONS: Bylaw 622-05, passed on January 24, 2005, establishes the development authority to be the CAO and a private firm. The land use bylaw (bylaw 712-13) establishes the development authority to be the development officer, a municipal planning commission, and council for matters related to direct control districts. At the 2018 organizational meeting, council appointed a development officer, and members to the municipal planning commission.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.

### 3. Subdivision and Development Appeal Board (SDAB)

LEGISLATIVE REQUIREMENTS: MGA 627, 628, Subdivision and Development Regulation 43/2002, Subdivision and Development Appeal Board Regulation 195/2017

1. Is a subdivision and development appeal board bylaw or intermunicipal agreement established?
2. Do the SDAB members exclude those who are:
  - municipal employees;
  - members of the municipal planning commission; and
  - individuals who can carry out subdivision and development powers on behalf of the municipality?
3. Is there no more than one councillor appointed as a member to the appeal board?
  - If more than one, is there Ministerial approval for the additional councillors to sit on the panel?
4. Are the active members of the SDAB trained?
5. Is there a clerk appointed to the SDAB, and is that person a designated officer?
6. Has the clerk received SDAB training?
7. Has the clerk kept a record of the hearings?

COMMENTS/OBSERVATIONS: Bylaw 752-18 establishes the subdivision and development appeal board for the Town of Onoway. The bylaw excludes members in accordance with the MGA. At the January 10, 2019 council meeting, council resolution 005/19 appointed two SDAB clerks and four board members. All appointees have received the appropriate training. It is noted in section 3.4.3 of this report that the SDAB clerk must be established as a designated officer position.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



#### 4. Subdivision Applications and Decision

LEGISLATIVE REQUIREMENTS: MGA 653, 653.1, 679, Subdivision and Development Regulation 43/2002, Subdivision and Development Appeal Board Regulation 195/2017

1. Are the forms set out in schedules 1 and 2 of the Subdivision and Development Regulation used for all subdivision application and deferred reserve caveat decisions?
2. If required, were written referrals sent according to legislation?
3. Have all the mandatory requirements in section 653 and 653.1 of the MGA been met?
4. If there have been appeals, did the SDAB clerk give five days' notice of the hearing to the appropriate stakeholders?

COMMENTS/OBSERVATIONS: Subdivision file 15SUB02-24, for the creation of three new parcels within the town, was reviewed. The appropriate forms were used for the subdivision application, and the legislative requirements reviewed were met.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



## 5. Development Applications

LEGISLATIVE REQUIREMENTS: MGA 683.1, 686, 687

1. Did the development authority review the application within 20 days to determine if it was complete?
2. If deemed complete, did the applicant get a notification that the application is complete, or if deemed incomplete, did the applicant get a notification from the development authority that the application is incomplete?
3. If the development permit application is refused, was a notice issued to the applicant?
4. Are appeal hearings held within 30 days after the receipt of a notice of appeal by the SDAB?
5. Does the SDAB give at least five days notice in writing of the hearing:
  - to the appellant;
  - to the development authority; and
  - to the owners as required under the land use bylaw?
6. Did the board make materials related to the appeal available for public inspection?

COMMENTS/OBSERVATIONS: Development application and decision 18DP01-24 was reviewed. The application was determined to be complete; therefore, no further notification to the applicant was required and a decision was made within the 20 day deadline.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



**6. Alberta Land Stewardship Act (ALSA) Regional Plan or Land Use Policies**

LEGISLATIVE REQUIREMENTS: MGA 622, 630.2 and ALSA 20

1. Is there an ALSA Regional Plan in effect in your area?
2. If yes, which plan?
3. Has a statutory declaration been filed with the Land Use Secretariat indicating compliance with the regional plan? (Note: due within five years of an ALSA regional plan coming into force.)

COMMENTS/OBSERVATIONS: There is no ALSA regional plan in effect for the Town of Onoway.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



**7. Growth Management Board**

LEGISLATIVE REQUIREMENTS: MGA 708.23

1. Is the municipality a member of a growth management board?
2. Has the growth management board established by bylaw an appeal mechanism or dispute resolution mechanism, or both, for the purposes of resolving disputes arising from actions taken or decisions made by the growth management board?

COMMENTS/OBSERVATIONS: The Town of Onoway is not part of a growth management board.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.

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## 8. Land Use Bylaw

LEGISLATIVE REQUIREMENTS: MGA 230, 606, 639, 640, 642 (1), 692 (4), Subdivision and Development Regulation 43/2002

1. Is there a Land Use Bylaw?
2. Does the Land Use Bylaw:
  - divide the municipality into districts (zones);
  - establish a method of making decisions on development permit applications, including provisions for:
    - the types of development permits that may be issued;
    - processing an application for, or issuing, canceling, suspending or refusing to issue development permits;
    - the conditions that development permits may be subject to;
    - how long development permits remain in effect;
    - the discretion the development authority may exercise with respect to development permits;
  - provide for how and to whom notice of the issuance of development permits is to be given;
  - establish the number of dwelling units permitted on a parcel of land; and
  - identify permitted and discretionary uses?
3. Does the public notice of application to rezone properties include:
  - the municipal address/legal address of the parcel of land;
  - a map showing the location of the parcel of land;
  - written notice to the assessed owner of that parcel of land; and
  - written notice to the assessed owner of the adjacent parcel of land?
4. Does the notice of a public hearing on land use bylaw related issues include:
  - the municipal address/legal address of the parcel of land;
  - a map showing the location of the parcel of land;
  - the general purpose of the bylaw and public hearing;
  - the address where the proposed bylaw, and any document related to the bylaw or public hearing can be inspected; and
  - the date, time and place of the public hearing?

COMMENTS/OBSERVATIONS: The current land use bylaw (bylaw 712-13) was adopted in 2014. There have been numerous amendments, including the most recent amendment (bylaw 746-18) in August 2018. The land use bylaw, and its corresponding amendments have met the legislative requirements reviewed.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.





RESOURCES: Not applicable.

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## 9. Municipal Development Plan (MDP)

LEGISLATIVE REQUIREMENTS: MGA 230, 606, 632, 641, 692

1. Is there a Municipal Development Plan?
  - Does the population of the municipality exceed 3,500?
  - If the population of the municipality is less than 3,500, does the Land Use Bylaw for the municipality contain 'Direct Control' districting as per section 641(1)?
2. Does the MDP address/include:
  - future land use;
  - future development;
  - coordination of land use, growth patterns and infrastructure with adjacent municipalities (if there is no intermunicipal development plan);
  - transportation systems; and
  - municipal services and facilities?
3. Has the MDP been amended?
4. Was the amendment to the MDP advertised?
5. Was a public hearing held for the amendment to the MDP?

COMMENTS/OBSERVATIONS: Bylaw 686-09, passed in December of 2009, adopts the MDP for the town. All legislative requirements reviewed have been met.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



## 10. Intermunicipal Development Plan (IDP)

LEGISLATIVE REQUIREMENTS: MGA 230, 606, 631, 636, 692, 708.28, 708.3

1. Is there an Intermunicipal Development Plan?
2. Does the IDP address/include within the IDP area:
  - future land use;
  - future development;
  - transportation;
  - coordination of intermunicipal programs (physical, social and economic development);
  - environmental matters;
  - dispute resolution processes;
  - plan repeal/amendment procedures; and
  - plan administration provisions?
3. Has the IDP been amended?
4. Was the amendment to the IDP advertised?
5. Was there a public hearing for the amendment of the IDP?

COMMENTS/OBSERVATIONS: The town established an IDP with Lac Ste. Anne County in 2012, and the plan met the reviewed legislative requirements.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



### 11. Intermunicipal Collaboration Frameworks (ICF)

LEGISLATIVE REQUIREMENTS: MGA 708.33, Intermunicipal Collaboration Framework Regulation 191/2017

1. Has an ICF been adopted with each municipality that shares a common border? (Not applicable until April 1, 2020.)

COMMENTS/OBSERVATIONS: The town is aware of the upcoming legislative requirements.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Information on ICF requirements, contents and dates can be located online at: [Intermunicipal Collaboration Frameworks](#)



## 12. Listing and Publishing Policies Related to Planning Decisions

LEGISLATIVE REQUIREMENTS: MGA 638.2

1. Are the following published on the municipal website:
  - an up-to-date list of council approved policies (by bylaw or resolution) used to make planning/development decisions;
  - a summary of these policies and their relationship to each other and to statutory plans and bylaws passed under Part 17 of the MGA; and
  - documents incorporated by reference in any bylaws passed under Part 17?

COMMENTS/OBSERVATIONS: The town's website does not have a summary of council approved policies and their relationship to each other.

MEETS LEGISLATIVE REQUIREMENTS: No

RECOMMENDATIONS/ACTION ITEMS: The town website must be updated to include a list and summary of all planning policies, and their relationships to each other.

RESOURCES: Municipal Affairs Planning Advisors are available to provide planning and development support by calling toll-free 310-0000 and then 780-427-2225.

MUNICIPAL RESPONSE: Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.



### 3.11 Local Authorities Election Act (LAEA)

#### 1. Joint Elections

LEGISLATIVE REQUIREMENTS: *Local Authorities Election Act (LAEA) 2-3*

1. Is there an agreement to hold an election in conjunction with another local authority?
2. Does the agreement include:
  - which elected authority is responsible for the conduct of the election; and
  - the appointment of a returning officer for each local authority?

COMMENTS/OBSERVATIONS: The town does not conduct joint elections with another local authority.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ ACTION ITEMS: No action required.

RESOURCES: Not applicable.

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## 2. Oath/Statement

LEGISLATIVE REQUIREMENTS: LAEA 16, Local Authorities Election Forms Regulation 106/2007

1. Did the Returning Officer, and all deputy returning officers take the oath/statement as per the Local Authorities Election Forms Regulation for the most recent election?

COMMENTS/OBSERVATIONS: During the October 2017 general election, the returning officer took the appropriate oath. As all positions were acclaimed, no other oaths were required.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ ACTION ITEMS: No action required.

RESOURCES: Not applicable.

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### 3. Substitute Returning Officer

LEGISLATIVE REQUIREMENTS: LAEA 13(2.1)

1. Has the municipality had a by-election in 2019?
2. Has a substitute returning officer been appointed in the resolution or bylaw that fixes the date for the by-election?

COMMENTS/OBSERVATIONS: There have been no by-elections in 2019; however, the CAO is aware of the new legislative requirement.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ ACTION ITEMS: No action required.

RESOURCES: Not applicable.





#### 4. Nomination Forms

LEGISLATIVE REQUIREMENTS: LAEA 27, 28.1, 34, 97

1. Is there a bylaw requiring a deposit upon the submission of a nomination form?
2. Were the nomination papers signed by at least five residents of the municipality?
3. Have all nomination papers that were filed prior to the most recent election been retained?
4. Were copies of the prescribed form for the identification of an official agent, campaign workers and scrutineers for the purposes of identification under section 52 made available to the candidates?
5. Does the municipality ensure that the Deputy Minister is forwarded a signed statement showing the name of each nominated candidate, election results, and any information about the candidate that the candidate has consented to being disclosed (for general elections and by-elections)?

COMMENTS/OBSERVATIONS: The town requires a \$50.00 deposit upon the submission of nomination forms. This is authorized by bylaw 736-17, passed August 17, 2017. A review of the retained nomination forms for the 2017 general election indicates that legislative requirements reviewed were met. The Deputy Minister was provided with the appropriate information.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ ACTION ITEMS: No action required.

RESOURCES: Not applicable.



## 5. Proof of Elector Eligibility

LEGISLATIVE REQUIREMENTS: LAEA 53, 53.1

1. Is there a bylaw to require additional pieces of identification to prove elector eligibility?
2. If so, was the bylaw advertised?
3. Did the notice of the bylaw include:
  - a statement of the general purpose of the bylaw and the proposed requirements for the number and types of identification that must be produced to verify elector name, current address and, if applicable, age;
  - the address where a copy of the proposed bylaw may be inspected; and
  - an outline of the procedure to be followed by anyone wishing to file a petition in respect of the proposed bylaw, as provided for in the MGA?

COMMENTS/OBSERVATIONS: The town does not have a bylaw requiring additional pieces of identification to prove elector eligibility.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ ACTION ITEMS: No action required.

RESOURCES: Not applicable.



**6. Vote by Special Ballot**

LEGISLATIVE REQUIREMENTS: LAEA 77.1, 77.2, 77.3

1. If the municipality provided for special ballots, was the Minister notified?

COMMENTS/OBSERVATIONS: The town does not provide for special ballots.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ ACTION ITEMS: No action required.

RESOURCES: Not applicable.



**7. Ballot Account**

LEGISLATIVE REQUIREMENTS: LAEA 88, 89, 94, 100

1. Has a copy of the ballot account been retained?

COMMENTS/OBSERVATIONS: All positions were filled by acclamation; therefore, no ballot account was required.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ ACTION ITEMS: No action required.

RESOURCES: Not applicable.



## 8. Disposition of Election Material

LEGISLATIVE REQUIREMENTS: LAEA 101

1. Were the election materials disposed of in accordance with section 101?
2. Is there a copy of the affidavits of destruction of the ballot box contents sworn or affirmed by the two witnesses?

COMMENTS/OBSERVATIONS: All positions were filled by acclamation for the last election; therefore, no materials had to be disposed.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ ACTION ITEMS: No action required.

RESOURCES: Not applicable.



## 9. Campaign Disclosure Statements

LEGISLATIVE REQUIREMENTS: LAEA 147.4

1. Did all campaign disclosure statements include:
  - the total amount of all campaign contributions received during the campaign period that did not exceed \$100 in the aggregate from any single contributor;
  - the total amount contributed, together with the contributor's name and address, for each contributor whose contributions during the campaign period exceeded \$100 in the aggregate;
  - the total amount of money paid by the candidate out of the candidate's own funds;
  - the total amount of any campaign surplus, including any surplus from previous campaigns; and
  - a financial statement setting out the total amount of revenue and expenses?
2. Are all documents filed under this section available to the public during regular business hours?

COMMENTS/OBSERVATIONS: No campaign contributions were collected by town candidates.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ ACTION ITEMS: No action required.

RESOURCES: Not applicable.



### 3.12 Emergency Management

#### 1. Municipal Emergency Organization/Agency/Advisory Committee

LEGISLATIVE REQUIREMENTS: *Emergency Management Act (EMA) 11, 11.1, 11.2*

1. Has an emergency advisory committee been appointed consisting of a member or members of council to advise on the development of emergency plans and programs?
2. Is an emergency management agency established to act as the agent of the local authority in exercising the local authority's powers and duties under the EMA?
3. Has a director of the emergency management agency been appointed?
4. Are there prepared and approved emergency plans and programs?

COMMENTS/OBSERVATIONS: The Town of Onoway has, by bylaw #724-16, established a regional emergency management committee and an emergency management agency. At the 2018 organizational meeting, council appointed a member and an alternate to the committee. In September of 2017, council appointed the director and the deputy director of emergency management (council resolution #247/17).

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



**2. Municipal Emergency Organization/Agency/Advisory Committee (for discussion only)**

**LEGISLATIVE REQUIREMENTS: *Local Authority Emergency Management Regulation***

**1. Is the municipality aware that as of January 1, 2020:**

- Emergency advisory committees and emergency management agencies must be appointed by bylaw;
- The Managing Director of the Alberta Emergency Management Agency (AEMA) will prescribe a command, control and coordination system that must be used by emergency management agencies;
- If a local authority has delegated some or all of their powers under the Emergency Management Act to a regional services commission or joint committee, the local authority must establish a bylaw setting out the powers and duties which have been delegated;
- If the local authority has delegated powers to a regional services commission, their bylaw must indicate whether the local authority will maintain an independent emergency management agency;
- When summer villages delegate powers and duties under the Emergency Management Act to another local authority, the local authority accepting the delegation of the summer village may delegate the powers to a council committee;
- When a summer village delegates powers and duties under the Emergency Management Act to another local authority, the summer village and the local authority must establish in bylaw which powers and duties have been delegated and accepted;
- Training will be prescribed by the Managing Director and will include:
  - Mandatory elected officials training within 90 days of taking oath
  - Directors of Emergency Management must take courses within 18 months of being appointed
  - Municipal staff responsible for implementing emergency plan must take prescribed courses within six months of taking on role
- Emergency management agencies must review the emergency plan at least once per year and make it available to AEMA for review and comment annually.

**COMMENTS/OBSERVATIONS:** The town is aware of the upcoming legislative requirements. A resource is provided below to assist the municipality.

**MEETS LEGISLATIVE REQUIREMENTS:** Yes

**RECOMMENDATIONS/ACTION ITEMS:** The updated requirements must be in place by the January 1, 2020 deadline.

**RESOURCES:** The Alberta Emergency Management Agency has developed a number of online tools at [www.aema.alberta.ca](http://www.aema.alberta.ca) to assist municipalities, which include resources to develop emergency plans, and

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training workshops. For questions and additional support pertaining to emergency management, contact the Alberta Emergency Management Agency at 310-0000 then dial 780-422-9000.

### 3.13 Libraries

#### 1. Municipal Library Board

LEGISLATIVE REQUIREMENTS: *Libraries Act* 3-5

1. Is a municipal library board established?
2. How many councillors have been appointed to the board?
3. Are there alternate members?
4. In the case of an intermunicipal library board, have the councils establishing the board appointed the members?
5. Does the membership appointment term exceed three years?
6. Does any member's number of terms exceed three terms? If so, did two-thirds of council approve?

COMMENTS/OBSERVATIONS: Bylaw 751-18, passed December 20, 2018, establishes the municipal library board for the town. At the 2018 organizational meeting, Council appointed a member of council, and an alternate member of council.

MEETS LEGISLATIVE REQUIREMENTS: No

RECOMMENDATIONS/ACTION ITEMS: The library board appointments must align with section 4 of the *Libraries Act*, which does not provide for the appointment of an alternate member.

RESOURCES: Municipal Affairs Library Consultants are available to provide library support by calling the Public Library Services Branch (PLSB) toll-free 310-0000 and then 780-427-4871 or by email at [librairies@gov.ab.ca](mailto:librairies@gov.ab.ca). Information is also available on the PLSB website at [www.albertalibraries.ca](http://www.albertalibraries.ca).

MUNICIPAL RESPONSE: Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.



## 2. System Library Board

LEGISLATIVE REQUIREMENTS: *Libraries Act 16, Libraries Regulation 141/1998*

1. Is a system library board established?
2. Have councils that have signed the agreement appointed the members of the board?
3. Does the membership appointment term exceed three years?
4. Does any member's total years of service exceed nine consecutive years? If so, did two-thirds of council approve?
5. Are there alternate members?

COMMENTS/OBSERVATIONS: The town is part of the Yellowhead Regional Library System. A council member is appointed annually at the organizational meeting.

MEETS LEGISLATIVE REQUIREMENTS: Yes

RECOMMENDATIONS/ACTION ITEMS: No action required.

RESOURCES: Not applicable.



## Section 4: Conclusion

Your participation and cooperation during the 2019 Municipal Accountability Program review are appreciated. This report is intended to help the Town of Onoway reach full mandatory legislative compliance.

No confidential information is contained within this report; therefore, the report in its entirety should be shared with council to strengthen awareness of the diversity and magnitude of municipal responsibilities, the significant tasks and work involved, and achievements in compliance. The report can be used as a planning tool for addressing the compliance gaps identified and for future training purposes. To demonstrate transparency and accountability to citizens, it is strongly encouraged that the review results are shared during an open public meeting.

The ministry is committed to maintaining a strong collaborative working relationship. We welcome your feedback on our review process as we work together to ensure Albertans live in viable municipalities with well-managed local governments.

## Debbie Giroux

---

**From:** Wendy Wildman <cao@onoway.ca>  
**Sent:** May 14, 2019 2:54 PM  
**To:** 'Debbie Giroux'  
**Subject:** FW: Town of Onoway - Bylaw Request Information  
**Attachments:** Town of Onoway Bylaw Request Letter.pdf; AUC Decision 22164-D01-2018.pdf; Onoway Sites.pdf; Bylaw Draft- Prohibiting Other Persons From Providing Electric Distribution Service Onoway.docx

Deb – for our June Council meeting.

### Wendy Wildman

CAO  
Town of Onoway  
Box 540  
Onoway, AB. T0E 1V0  
780-967-5338 Fax: 780-967-3226  
cao@onoway.ca

**NOTE EMAIL CONTACT INFORMATION HAS CHANGED TO: [cao@onoway.ca](mailto:cao@onoway.ca)**

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**From:** Smith, Nicole <nicole.smith@fortisalberta.com>  
**Sent:** May 14, 2019 2:17 PM  
**To:** Wendy Wildman <cao@onoway.ca>  
**Cc:** Smith, Nicole <nicole.smith@fortisalberta.com>  
**Subject:** Town of Onoway - Bylaw Request Information

Good afternoon Wendy,

Follow up to our conversation, please find attached the following documents to proceed with the bylaw request for Council.

- Municipal bylaw request letter
- Copy of AUC decision 22164-D01-2018
- List of sites in your municipality
- Draft Bylaw

Once you have had a chance to review, please contact me with a bylaw number and when you would like to bring to Council and I can update accordingly.

Thank you and have a great day.

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Ms. Wildman, Chief Administrative Officer  
Town of Onoway  
PO Box 540  
Onoway, AB  
T0E 1V0

**RE: AUC DECISION 22164-D01-2018 – MUNICIPAL BYLAW REQUEST**

On August 8, 2018, FortisAlberta advised the Town of Onoway (the **Municipality**) that the Alberta Utilities Commission (**AUC** or **Commission**) had confirmed FortisAlberta's exclusive municipal franchise areas in Decision 22164-D01-2018 (**Decision**).<sup>27</sup> The AUC has now affirmed that decision in Decision 23870-D01-2019, denying EQUS REA's application for review and variance.<sup>28</sup>

You may recall that, in the Decision, the Commission determined that if the Municipality wishes to effect an immediate transfer of any existing Rural Electrification Associations (**REAs**) members and facilities in circumstances where an REA service area overlaps with the boundaries of the municipality, it can pass a bylaw requiring the transfer, or setting out some other timing for when all persons in annexed areas will be required to take service from FortisAlberta, pursuant to section 46 of the *Municipal Government Act*.

FortisAlberta believes that your Municipality should consider passing such a bylaw, as it will ensure that your Municipality collects the applicable franchise fees and linear taxes from its residents. It will also provide your residents with clarity as to the electric distribution service provider within your Municipality.

Accordingly, I am writing to request that the Municipality consider passing a bylaw to prohibit other persons, including REAs, from providing electrical distribution services within the municipality's legal boundaries. I have enclosed a template bylaw for you to review with your municipal council.

I would appreciate the opportunity to meet with you to discuss the template bylaw further. I will be in touch to schedule a meeting.

Thank-you in advance for your consideration.

Regards,



Nicky Smith  
Stakeholder Relations Manager  
Phone: 780-405-9017 Email: [nicole.smith@fortisalberta.com](mailto:nicole.smith@fortisalberta.com)

Enclosures: Section 46 Bylaw Template

<sup>27</sup> Available online: [http://www.auc.ab.ca/regulatory\\_documents/ProceedingDocuments/2018/22164-D01-2018.pdf](http://www.auc.ab.ca/regulatory_documents/ProceedingDocuments/2018/22164-D01-2018.pdf).

<sup>28</sup> Available online: [http://www.auc.ab.ca/regulatory\\_documents/ProceedingDocuments/2019/23870-D01-2019.pdf](http://www.auc.ab.ca/regulatory_documents/ProceedingDocuments/2019/23870-D01-2019.pdf)

**TOWN OF ONOWAY  
BYLAW XX - 2019**

**A BYLAW TO PROHIBIT OTHER PERSONS FROM PROVIDING ELECTRIC DISTRIBUTION SERVICE WITHIN THE LEGAL BOUNDARIES OF THE MUNICIPALITY**

**WHEREAS**, pursuant to section 45 of the *Municipal Government Act*, R.S.A. 2000, c. M-26 (the "*Municipal Government Act*"), and as authorized by Municipal Bylaw 2013/04, 2013, **Town of Onoway** (the "**Municipality**") has entered into an Electric Distribution Franchise Agreement with FortisAlberta Inc. (the "**Franchise Agreement**");

**WHEREAS**, pursuant to the terms of the Franchise Agreement, FortisAlberta Inc. (such party and its successors and permitted assigns hereinafter referred to as "**FortisAlberta**") has been granted the exclusive right to provide electric distribution service within the legal boundaries of the Municipality as altered from time to time (the "**Municipal Franchise Area**") for the term of such agreement;

**WHEREAS**, the Municipality may, upon the expiration of the Franchise Agreement and subject to the terms of the *Municipal Government Act*, enter into a subsequent or replacement agreement with FortisAlberta or a third party (either such party the "**Subsequent Franchisee**") which grants such Subsequent Franchisee the exclusive right to provide electric distribution service within the Municipal Franchise Area for the term of such agreement (any such agreement or replacement thereof a "**Subsequent Franchise Agreement**");

**WHEREAS**, the legal boundaries of the Municipality may be altered from time to time after the date this Bylaw is passed, due to municipal annexations or for other reasons;

**AND WHEREAS**, pursuant to Section 46 of the *Municipal Government Act*, and for the duration of any Franchise Agreement or Subsequent Franchise Agreement (any such agreement an "**Exclusive Franchise Agreement**"), the Municipality wishes to prohibit any person other than FortisAlberta or the Subsequent Franchisee, as the case may be (such party the "**Exclusive Franchisee**"), from providing electric distribution service, or any similar utility service, within the Municipal Franchise Area;

**NOW THEREFORE** the Council of **Town of Onoway** in the Province of Alberta, duly assembled, enacts as follows:

**Short Title**

1. This Bylaw may be referred to as the "**Prohibiting Other Persons From Providing Electric Distribution Service within Municipal Franchise Area Bylaw**"

**Prohibiting Other Persons**

2. For the duration of any Exclusive Franchise Agreement, any person other than the Exclusive Franchisee shall be prohibited from providing electric distribution service, or any similar utility service, within the Municipal Franchise Area.
3. If, prior to the date that this Bylaw is passed:



- (a) an alteration of the legal boundaries of the Municipality, through annexation or otherwise, occurred and resulted in the service area of any rural electrification association (as such term is defined in the *Electric Utilities Act*, R.S.A. 2003, c. E-5.1) extending into the Municipal Franchise Area; and
- (b) the service area of such rural electrification association was subsequently altered by Decision 22164-D01-2018 or any other decision, order, or approval of the Alberta Utilities Commission (or otherwise pursuant to applicable law) such that it no longer extends into the Municipal Franchise Area;

then any consumers within the Municipal Franchise Area which are connected to, and take electric distribution service from, such rural electrification association must transfer to, connect to, and take electric distribution service from, the Exclusive Franchisee no later than the ninetieth (90<sup>th</sup>) day following the date that this Bylaw is passed.

4. If:

- (a) an alteration of the legal boundaries of the Municipality, through annexation or otherwise, occurs after (or occurred prior to) the date that this Bylaw is passed and results in (or resulted in) the service area of any rural electrification association (as such term is defined in the *Electric Utilities Act*, R.S.A. 2003, c. E-5.1) extending into the Municipal Franchise Area; and
- (b) the service area of such rural electrification association is subsequently altered by any decision, order, or approval of the Alberta Utilities Commission (or otherwise pursuant to applicable law) such that it no longer extends into the Municipal Franchise Area (any such alteration, a "**Service Area Alteration**");

then any consumers within the Municipal Franchise Area which are connected to, and take electric distribution service from, such rural electrification association must transfer to, connect to, and take electric distribution service from, the Exclusive Franchisee no later than the ninetieth (90<sup>th</sup>) day following the date of such Service Area Alteration.

READ a First time in Council assembled this \_\_\_ day of \_\_\_\_\_, 2019.

READ a Second time in Council assembled this \_\_\_ day of \_\_\_\_\_, 2019.

READ a Third time in Council assembled this \_\_\_ day of \_\_\_\_\_, 2019.

---

**Judy Tracy, Mayor**

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**Wendy Wildman,  
Chief Administrative Officer**

Municipality Name	Stakeholder Relations Manager	Municipality Type	REA Affected	Tap Number 1	Land Location
Onoway	Nicky Smith	Town	EQUS REA Ltd.	Line 5	NE27-54-25-4
Onoway	Nicky Smith	Town	EQUS REA Ltd.	unknown	SE-34-54-2-5
Onoway	Nicky Smith	Town	EQUS REA Ltd.	unknown	NE-27-54-2-5
Onoway	Nicky Smith	Town	EQUS REA Ltd.	OW1092	NE-27-54-2-5
Onoway	Nicky Smith	Town	EQUS REA Ltd.	OW341	NW-26-54-2-5
Onoway	Nicky Smith	Town	EQUS REA Ltd.	unknown	NE-27-54-2-5
Onoway	Nicky Smith	Town	EQUS REA Ltd.	unknown	NE-35-54-2-5
Onoway	Nicky Smith	Town	EQUS REA Ltd.	OW1212	NE-35-54-2-5



**FortisAlberta Inc.**

**Application for Orders Confirming Boundaries of  
FortisAlberta Inc. Exclusive Municipal Franchise Areas**

**July 16, 2018**



**Alberta Utilities Commission**

Decision 22164-D01-2018

FortisAlberta Inc.

Application for Orders Confirming Boundaries of  
FortisAlberta Inc. Exclusive Municipal Franchise Areas  
Proceeding 22164

Application 22164-A001

July 16, 2018

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## 1 Decision summary

1. In this decision, the Alberta Utilities Commission considers whether to approve an application by FortisAlberta Inc. (FortisAlberta) under Section 29 of the *Hydro and Electric Energy Act (HEEA)*.<sup>1</sup> In the application FortisAlberta requests that the service areas of certain rural electrification associations (REAs) be altered to align with municipal franchise agreements (MFAs) between FortisAlberta and various municipalities<sup>2</sup> in circumstances where the corporate boundaries of the municipality have expanded through annexation and now overlap with an existing REA service area. Specifically, the Commission has been asked to grant the following remedial orders:

- i. Confirmation of the current limits of FortisAlberta's exclusive service areas as determined by the applicable MFAs.
- ii. Alteration, as required, of REA service area boundaries to prevent incursion into exclusive service areas governed by the applicable MFAs.
- iii. Transfers of facilities and customers coincident to the realignment of service areas, as required.<sup>3</sup>

2. For the reasons provided in this decision, the Commission alters those REA service areas that currently overlap with the municipal franchise areas granted to FortisAlberta. However, the Commission will not require an immediate transfer of existing REA facilities and customers<sup>4</sup> in the annexed (formerly overlapping) areas in the absence of a municipal bylaw requiring those customers to connect to FortisAlberta. In the absence of any such bylaw, existing REA facilities in the formerly overlapping areas will eventually transition to FortisAlberta because of the altered service areas, all of which is discussed in greater detail below.

## 2 Introduction and background

### 2.1 Application by FortisAlberta

3. On December 16, 2016, FortisAlberta filed an application with the Commission under Section 29 of the *HEEA* asking for the remedial orders described above.

---

<sup>1</sup> RSA 2000, c H-16 [*HEEA*].

<sup>2</sup> The MFAs between FortisAlberta and the municipalities that are the subject of this application are referred to as the applicable MFAs.

<sup>3</sup> Exhibit 22164-X0013, Application-Orders Confirming Boundaries-Exclusive Municipal Franchise Areas, December 16, 2016, PDF page 4, paragraph 1 [*Exhibit 22164-X0013, Application*].

<sup>4</sup> When referring to a person receiving electric distribution service from an REA in this decision, the Commission has generally used the term customer and member interchangeably.

4. In its application, FortisAlberta stated that it has entered into MFAs with a number of municipalities that grant it the exclusive right to provide electric distribution service within the municipalities' corporate limits.<sup>5</sup> All of the MFAs entered into after 2012 are based on a standard MFA template approved by the Commission in Decision 2012-255: *Town of Hinton, New Franchise Agreement Template and Franchise Agreement with FortisAlberta Inc.*,<sup>6</sup> Clause 4,<sup>7</sup> of which reads as follows:

4) GRANT OF FRANCHISE

a) Subject to subparagraph b) below, and to the terms and conditions hereof, the Municipality hereby grants to the Company the exclusive right within the Municipal Service Area:

i) to provide Electric Distribution Service;

...Subject to Article 12 of this Agreement, in the event that a third party (including a Rural Electrification Association (REA)) owns, operates or controls any electrical distribution facilities or lighting within the Municipal Service Area at any time during the Term of this

<sup>5</sup> A complete list of the applicable MFAs was provided in Exhibit 22164-X0012, Appendix A – Listing of Electric Distribution System Franchise Agreements, December 16, 2016 [Exhibit 22164-X0012, Appendix A].

<sup>6</sup> Decision 2012-255: *Town of Hinton, New Franchise Agreement Template and Franchise Agreement with FortisAlberta Inc.*, Application No. 1608547, Proceeding ID No. 1946, September 28, 2012 [Decision 2012-255].

<sup>7</sup> Prior to Decision 2012-255: Clause 4 and Clause 12 of the standard electric distribution franchise agreement approved in Decision 2001-52: *Alberta Urban Municipalities Association Standard Electric Franchise Agreement with ATCO Electric Ltd. and UtiliCorp Networks Canada*, Application No. 2000361, File No. 6650-1-1, June 19, 2001, provided:

4) GRANT OF FRANCHISE

a) Subject to the terms and conditions hereof, the Municipality hereby grants to the Company the exclusive right within the Municipality:

i) to Construct, Operate, and Maintain the Distribution System; and

ii) to use designated portions of roads, rights-of-way, and other lands owned, controlled or managed by the Municipality necessary to Construct, Operate and Maintain the Distribution System, including the necessary removal, trimming of trees, shrubs or bushes or any parts thereof.

This grant shall not preclude the Municipality from providing wire services to municipally owned facilities where stand alone generation is provided on site or immediately adjacent sites excepting road allowances. Such services are to be provided by the Municipality directly and not by any other third party Wire Services Provider.

b) The Company agrees to:

i) bear the full responsibility of an owner of an electric distribution system and to ensure all services provided pursuant to this Agreement are in accordance with the Distribution Tariff, insofar as applicable;

ii) Construct, Operate and Maintain the Distribution System;

iii) use designated portions of roads, rights-of-way, and other lands including other lands owned, controlled or managed by the Municipality necessary to Construct, Operate and Maintain the Distribution System, including the necessary removal, trimming of trees, shrubs or bushes or any parts thereof;

iv) use the Municipality's roads, rights-of-way and other Municipal Property granted hereunder solely for the purpose of providing Distribution Access Service and any other service contemplated by this Agreement.

...  
12) INCREASE IN MUNICIPAL BOUNDARIES  
...

For all other increases to the Municipality area through annexation or otherwise, the rights and obligations contained in this Agreement will apply in respect of the whole Municipality, including the increased area.

Agreement, the Municipality agrees that it will support the Company's efforts, as is reasonable, to purchase such electrical distribution facilities or, to the extent that it has the authority to do so, the Municipality shall otherwise require such third party to sell such facilities to the Company...<sup>8</sup>

5. FortisAlberta stated that, because of municipal annexations authorized by orders-in-council, the corporate boundaries of municipalities have expanded, resulting in circumstances where the franchise areas granted to FortisAlberta by the municipalities overlap with previously approved REA service areas.

6. FortisAlberta provided a list of municipalities with which it had entered into an MFA where the franchise area granted in the MFA now overlaps with an REA service area (the affected municipalities).<sup>9</sup> A complete list of the affected municipalities is included in Appendix A to this decision for ease of reference.

7. FortisAlberta stated that the corporate boundaries of the affected municipalities overlap with the service areas of the following REAs:

- Armena REA Ltd.
- Battle River Cooperative REA Ltd. (Battle River or Battle River Power Coop)
- Drayton Valley REA Ltd.
- EQUUS REA Ltd. (EQUUS)
- Mayerthorpe and District REA Ltd.
- North Parkland Power REA Ltd. (North Parkland)
- Rocky REA Ltd. (Rocky)
- Stony Plain REA Ltd.
- Tomahawk REA Ltd. (Tomahawk)
- West Liberty REA Ltd.
- West Wetaskiwin REA Ltd. (West Wetaskiwin)
- Wild Rose REA Ltd. (Wild Rose)

(collectively, the affected REAs)<sup>10</sup>

<sup>8</sup> Decision 2012-255: Appendix 1 – Town of Hinton franchise agreement with FortisAlberta Inc., pages 7-8.

<sup>9</sup> Exhibit 22164-X0012, Appendix A.

<sup>10</sup> Exhibit 22164-X0013, Application, PDF pages 11-12.



8. FortisAlberta further identified 208 locations with REA-owned distribution facility assets, serving 163 REA members, that would be affected by its application.<sup>11</sup>

9. FortisAlberta requested 83 specific orders that, in general, seek to align the franchise areas granted to FortisAlberta with the expanded municipal corporate boundaries and correspondingly alter the Commission-approved service areas of the affected REAs.<sup>12</sup> Each order relates to a specific municipality with which FortisAlberta has an MFA, and the REA whose service territory would be revised. Where necessary, the proposed form of order also provides for the transfer of existing REA assets and customers that fall within the FortisAlberta exclusive franchise area. For example, FortisAlberta's proposed form of order relating to the Village of Alberta Beach reads:

FortisAlberta's exclusive franchise area for the provision of electric distribution service to residents of the Village of Alberta Beach is confirmed to correspond to the corporate limits of the municipality as described in Appendix E-01. The exclusive franchise area is subject to vary from time to time in accordance with applicable legislation, subsequently issued Orders-In-Council, Commission orders, or any combination thereof. The rural service area granted to EQUUS REA Ltd. pursuant to AUC Approval No. U2013-048 is revised to align with, and shall in no circumstances extend past, the corporate limits of the Village of Alberta Beach, as established from time to time in accordance with applicable legislation, subsequently issued Orders-In-Council, Commission orders, or any combination thereof. The Commission approves the transfer of all EQUUS REA Ltd. facilities, inclusive of associated rights or way, easements, or other licenses for the use of affected land, and customers located in the FortisAlberta service area, as described above to FortisAlberta Inc.<sup>13</sup>

10. If the Commission grants its application, FortisAlberta asked the Commission to confirm that Section 2.18 of AUC Rule 021: *Settlement System Code Rules* applies.<sup>14</sup> It also asked the Commission to direct the affected REAs to work with FortisAlberta to submit a joint customer transition plan to the AUC and the Independent System Operator, at least 60 days prior to the effective customer transfer date.

11. FortisAlberta indicated that if the Commission approves its application, the valuation for the assets to be transferred from the affected REAs to FortisAlberta should be based on the replacement cost new less depreciation (RCN-D) valuation method. However, FortisAlberta stated that it was not seeking a determination of the valuation method for any asset transfers as part of its application. Rather, it proposed that the Commission address the costs associated with any resulting purchases at a later date and in one of two ways, depending on whether FortisAlberta is successful in its efforts to determine a purchase price with each affected REA. In the event that the purchase price can be cooperatively determined, FortisAlberta and the affected REA would submit any such amount to the Commission for review and approval. If the purchase price cannot be cooperatively determined, FortisAlberta will bring an application before the

<sup>11</sup> Exhibit 22164-X0163, Responses to FAI-AUC-2017MAY01-001 to 009, May 18, 2017, PDF page 14 [FortisAlberta IR responses to AUC].

<sup>12</sup> Exhibit 22164-X0013, Application, PDF page 19, paragraph 35.

<sup>13</sup> Exhibit 22164-X0013, Application, PDF page 19.

<sup>14</sup> Section 2.18 of Rule 021: *Settlement System Code Rules* addresses requirements when there is a transition of roles in terms of load settlement agent (LSA), meter data manager (MDM) or wire service provider (WSP).

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Commission for determination and approval of the purchase price of the subject assets pursuant to the *HEEA*.

## 2.2 Procedural background

### 2.2.1 Commission process

12. The Commission issued notice of the application on January 24, 2017.<sup>15</sup> The Commission also issued a direction to those REAs with existing customers that may be affected by FortisAlberta's application to provide the names and addresses of those customers. This was to provide notice to each of those REA members directly.<sup>16</sup> The Commission issued a second notice of application on February 7, 2017, a copy of which was served on each REA member associated with electric distribution facilities identified by FortisAlberta as being subject to the application.<sup>17</sup> The notice provided an opportunity for any interested party to file a statement of intent to participate in the proceeding.

13. The Commission subsequently received correspondence from each of the Alberta Federation of Rural Electrification Associations (AFREA) and Battle River, identifying additional members that had not received notice but may be affected by FortisAlberta's application.<sup>18</sup> The Commission extended the deadline for registration of statements of intent to participate to permit additional persons potentially affected by the application to be provided notice.

14. Statements of intent to participate were received from or on behalf of several REAs, including Wild Rose, Tomahawk, EQUUS, and AFREA. In its statement of intent to participate, AFREA advised that it would be representing Battle River, North Parkland, Rocky and West Wetaskiwin in this proceeding. EQUUS and Tomahawk advised that unless otherwise indicated, they would be filing joint submissions. The Commission also received submissions filed by the Town of Bon Accord, Leduc County and Beaver County and from several individuals.<sup>19</sup>

15. FortisAlberta, AFREA and EQUUS / Tomahawk<sup>20</sup> actively participated in this proceeding. The Commission refers to AFREA and EQUUS / Tomahawk collectively as the respondents.

16. The Commission's evidentiary process included two rounds of information requests (IRs) to and responses from FortisAlberta, evidence from the respondents, IRs to and responses from the respondents, rebuttal evidence from FortisAlberta, and an oral hearing from January 25, 2018, to January 26, 2018. Following the oral hearing, and after granting FortisAlberta a limited opportunity to ask further IRs on certain oral testimony provided by

<sup>15</sup> Exhibit 22164-X0019, Notice of application, January 24, 2017.

<sup>16</sup> Exhibit 22164-X0020, AUC direction to disclose customer information, January 24, 2017.

<sup>17</sup> Exhibit 22164-X0023, Letter to REA members and updated notice, February 7, 2017.

<sup>18</sup> Copies of the correspondence received were attached to the Commission's correspondence of February 27, 2017. Exhibit 22164-X0031, Attach 2 - Additional Service Area Members Not Originally Indicated letter and Exhibit 22164-X0032, Attach 1 - Additional Service Area Members Not Originally Indicated letter.

<sup>19</sup> The individuals that filed SIPs were Mr. Rick Walger, Mr. Marvin Wilson, Mr. Klaas Werkema, Ms. Christine Werkema, Mr. Newton Henricks, Ms. Gail Goudreau, and Mr. Ian Stuart.

<sup>20</sup> In some instances, EQUUS' evidence and submissions were on behalf of EQUUS alone, in other instances the submission was on behalf of EQUUS and Tomahawk.

AFREA's witness panel, the Commission established a process for filing written argument and reply argument.

17. To provide some guidance to the parties in advance of the oral hearing, the Commission issued a preliminary issues list on January 23, 2018. The Commission issued a revised issues list on February 6, 2018, and asked the parties to address those issues in argument along with any others.<sup>21</sup> At the same time, the Commission confirmed that because FortisAlberta was not seeking a determination of the valuation method for any asset transfers as part of its application, the valuation method for any asset transfers was not within the scope of the proceeding.

18. The Commission considers that the record of this proceeding closed on April 5, 2018, with the filing of reply argument by the parties.

19. In reaching the determinations set out in this decision, the Commission has considered all relevant materials comprising the record of this proceeding, including the evidence, argument and reply argument, provided by each party. 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.

### 2.2.2 Motions and other procedural matters

20. The Commission received several motions and procedural requests throughout the course of this proceeding, including:

- Motions brought by each of AFREA and EQUUS for eligibility for cost recovery;<sup>22</sup>
- A "concern and apprehension" registered by EQUUS;<sup>23</sup>
- A motion by EQUUS during the oral hearing for a combination of written and oral argument and reply argument;<sup>24</sup> and
- A motion by FortisAlberta during the oral hearing for an opportunity to ask written IRs of AFREA following the hearing.<sup>25</sup>

21. With the exception of the EQUUS "concern and apprehension", specifics of each of the motions received, and the Commission's rulings in response, are fully documented on the record of this proceeding and will not be repeated here.

22. In its letter dated on March 28, 2017, EQUUS / Tomahawk registered, "a concern and apprehension", with respect to the designated legal representative of FortisAlberta in this proceeding and alleged, "off-line discussions and a private course of dealing" between FortisAlberta and the Commission. EQUUS / Tomahawk indicated that they would be, "reviewing

<sup>21</sup> Exhibit 22164-X0272, Process for argument and issues list, February 6, 2018.

<sup>22</sup> Exhibit 22164-X0057, AFREA Motion, March 28, 2017, Exhibit 22164-X0046, Letter of Tomahawk REA and EQUUS REA re Preliminary Matters, March 28, 2017, and Exhibit 22164-X0048, Letter of Tomahawk REA and EQUUS REA re Preliminary Matters, March 28, 2017 [Exhibits 22164-X0046 and 48, Preliminary Matters].

<sup>23</sup> Exhibits 22164-X0046 and 48, Preliminary Matters.

<sup>24</sup> Transcript, Volume 2, page 202, line 7 to page 204, line 9.

<sup>25</sup> Transcript, Volume 2, page 246, lines 8-21.

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these circumstances carefully in this Proceeding ... and reserve the right to make further submissions on these matters as they may see fit.”<sup>26</sup> No motion or request for any relief associated with these concerns was ever raised. In correspondence dated November 14, 2017, the Commission directed that in the event EQUUS / Tomahawk wished to request any relief or pursue the concerns noted, it should file a motion with the Commission by no later than December 1, 2017.<sup>27</sup> No motion was received in response to the Commission’s correspondence. On that basis, the Commission considers the EQUUS “concern and apprehension” to be withdrawn and that there is no need to address the matter further.

### 3 Legislative background

23. The municipalities’ authority, including that relating to the purported grant of exclusivity in the MFAs, is founded in the provisions of the *Municipal Government Act (MGA)*.<sup>28</sup> The Commission’s authority relating to the approval of such agreements is founded in the provisions of the *Electric Utilities Act (EUA)*,<sup>29</sup> and its authority relating to service area designations is conferred by the provisions of the *HEEA*. In this section, the Commission provides an overview of the most relevant statutory provisions and applicable definitions.

#### 3.1 Municipalities’ authority to govern

24. The purpose of municipalities, their powers, duties and functions, as well as their general jurisdiction and authority to pass bylaws are detailed in sections 3 and 5 through 9 of the *MGA*. Those sections state:

##### **Municipal purposes**

3 The purposes of a municipality are

- (a) to provide good government,
- (a.1) to foster the well-being of the environment,
- (b) to provide services, facilities or other things that, in the opinion of council, are necessary or desirable for all or a part of the municipality,
- (c) to develop and maintain safe and viable communities, an
- (d) to work collaboratively with neighbouring municipalities to plan, deliver and fund intermunicipal services.

##### **Powers, duties and functions**

5 A municipality

<sup>26</sup> Exhibits 22164-X0046 and 48, Preliminary Matters.

<sup>27</sup> Exhibit 22164-X0239, AUC letter further process, November 14, 2017, PDF page 2.

<sup>28</sup> RSA 2000, c M-26 [*MGA*].

<sup>29</sup> SA 2003, c E-5.1 [*EUA*].

- (a) has the powers given to it by this and other enactments,
- (b) has the duties that are imposed on it by this and other enactments and those that the municipality imposes on itself as a matter of policy, and
- (c) has the functions that are described in this and other enactments.

**Natural person powers**

6 A municipality has natural person powers, except to the extent that they are limited by this or any other enactment.

**General jurisdiction to pass bylaws**

7 A council may pass bylaws for municipal purposes respecting the following matters:

(a) the safety, health and welfare of people and the protection of people and property;

...

(f) services provided by or on behalf of the municipality;

(g) public utilities;

...

**Powers under bylaws**

8 Without restricting section 7, a council may in a bylaw passed under this Division

(a) regulate or prohibit;

(b) deal with any development, activity, industry, business or thing in different ways, divide each of them into classes and deal with each class in different ways;

...

**Guides to interpreting power to pass bylaws**

9 The power to pass bylaws under this Division is stated in general terms to

(a) give broad authority to councils and to respect their right to govern municipalities in whatever way the councils consider appropriate, within the jurisdiction given to them under this or any other enactment, and

(b) enhance the ability of councils to respond to present and future issues in their municipalities.

### 3.2 Municipalities' authority relating to non-municipal utility service

25. Division 3 of the *MGA* contains a number of provisions dealing with public utilities. Under Division 3, Section 45 of the *MGA* allows a municipality to, by agreement, grant a right to provide a "utility service" within the municipality:

45 (1) A council may, by agreement, grant a right, exclusive or otherwise, to a person to provide a utility service in all or part of the municipality, for not more than 20 years.

(2) The agreement may grant a right, exclusive or otherwise, to use the municipality's property, including property under the direction, control and management of the municipality, for the construction, operation and extension of a public utility in the municipality for not more than 20 years.

(3) Before the agreement is made, amended or renewed, the agreement, amendment or renewal must

(a) be advertised, and

(b) be approved by the Alberta Utilities Commission.

(4) Subsection (3)(b) does not apply to an agreement to provide a utility service between a council and a regional services commission.

(5) Subsection (3) does not apply to an agreement to provide a utility service between a council and a subsidiary of the municipality within the meaning of section 1(3) of the *Electric Utilities Act*.

26. Where a utility service is provided under Section 45 of the *MGA*, Section 46 authorizes a municipality to prohibit other persons from providing the same or a similar utility service:

46 When a person provides a utility service in a municipality under an agreement referred to in section 45, the council may by bylaw prohibit any other person from providing the same or a similar utility service in all or part of the municipality.

27. Section 1(1) of the *MGA* defines "public utility" as follows:

1(1)(y) "public utility" means a system or works used to provide one or more of the following for public consumption, benefit, convenience or use:

...

(vii) electric power;

...

and includes the thing that is provided for public consumption, benefit, convenience or use;

28. The definition of “public utility” in Section 1(1) of the *MGA* applies throughout the *MGA*. Division 3, Section 28 defines the following terms for the purposes of that division only:

28 In this Division,

- (b) “municipal public utility” means the system or works of a public utility operated by or on behalf of a municipality or a subsidiary of a municipality within the meaning of section 1(3) of the *Electric Utilities Act* other than under an agreement referred to in section 45;
- (c) “municipal utility service” means a utility service provided by a municipal public utility;
- (d) “non-municipal public utility” means the system or works of a public utility operated by or on behalf of a person under an agreement referred to in section 45;
- (f) “utility service” means the thing that is provided by the system or works of a public utility.

### 3.3 Commission’s authority relating to municipal grants of rights to distribute electricity

29. As noted, Section 45 of the *MGA* allows a council to grant a right to a person to provide a utility service in the municipality for up to 20 years. Under Section 45(3), before such an agreement is made, amended or renewed, it must be approved by the Commission.

30. Section 139 of the *EUA* likewise provides that the right to distribute electricity granted by a municipality has no effect unless approved by the Commission, except where made to a municipal subsidiary:

139 (1) A right to distribute electricity granted by a municipality

- (a) to an owner of an electric distribution system has no effect unless the grant is approved by the Commission;
- (b) to a subsidiary of the municipality does not require Commission approval.

31. Subsections (2) and (3) of Section 139 of the *EUA* respectively, detail the grounds on which the Commission may approve the grant as well as its authority to impose conditions on any approval granted:

139 (2) The Commission may approve the grant of a right to distribute electricity when, after hearing the interested parties or with the consent of the interested parties, the Commission determines that the grant is necessary and proper for the public convenience and to properly serve the public interest.

(3) The Commission may, in giving its approval, impose any conditions as to construction, equipment, maintenance, service or operation that the public convenience and the public interest reasonably require.

32. Section 140 of the *EUA* places specific limits on the Commission's approval of grants under Section 139, namely:

140 The Commission shall not approve a grant under section 139 unless

- (a) it is a term of the grant that the grant does not prevent the Crown from exercising that right,
- (b) the person seeking the grant has satisfied the Commission that the proposed scheme for the distribution of electricity is reasonable and sufficient, having regard to the general circumstances, and
- (c) the Commission is satisfied that the grant is to the general benefit of the area directly or indirectly affected by it.

### 3.4 Service area boundaries

33. Section 101 of the *EUA* grants an exclusive right to the owner of an electric distribution system<sup>30</sup> in whose service area a property is located to serve persons wishing to obtain electricity for use on their property.

101(1) A person wishing to obtain electricity for use on property must make arrangements for the purchase of electric distribution service from the owner of the electric distribution system in whose service area the property is located.

...

(3) No person other than the owner of an electric distribution system may provide electric distribution service on the electric distribution system of that owner.

34. Under Section 29(1) of the *HEEA*, the Commission has authority to alter the boundaries of an electric distribution system service area, as follows:

29(1) The Commission, on the application of an interested person or on its own motion,

- (a) when in its opinion it is in the public interest to do so, and
- (b) on any notice and proceedings that the Commission considers suitable,

may alter the boundaries of the service area of an electric distribution system, or may order that the electric distribution system shall cease to operate in a service area or part of it at a time fixed in the order.

35. Subsections 2 and 3 of Section 29 of the *HEEA* impose constraints on the Commission's authority to alter service area boundaries where the owner of the electric distribution system is a local authority.<sup>31</sup> The Commission cannot reduce the service area of a local authority without its

<sup>30</sup> *EUA*, s 1(1)(m): "electric distribution system" means the plant, works, equipment, systems and services necessary to distribute electricity in a service area, but does not include a generating unit or a transmission facility.

<sup>31</sup> *HEEA*, s 1(1)(h) "local authority" means (i) the corporation of a city, town, village, municipal district or Metis settlement, (ii) in the case of an improvement district, the Minister responsible for the *Municipal Government Act*, or (iii) in the case of a special area, the Minister responsible for the *Special Areas Act*.





consent, and it must grant an application to enlarge the service area unless it finds compelling reasons in the public interest not to do so:

(2) When a local authority owns and operates an electric distribution system within its municipality, the Commission shall not reduce its service area without its consent.

(3) When a local authority that owns and operates an electric distribution system applies for an enlargement of its service area to include additional land in its municipality, the Commission shall

(a) in respect of land not included in the service area of another electric distribution system, grant the application, or

(b) in respect of land included in the service area of another electric distribution system, grant the application unless after a public hearing the Commission finds compelling reasons in the public interest not to do so, in which case the Commission with the approval of the Lieutenant Governor in Council may deny the application in whole or in part,

and when the Commission grants an application to which clause (b) applies, it shall stipulate any terms and conditions it considers reasonable including a stipulation of the date on which the alteration of the service areas comes into force ...

36. Section 26 of the *HEEA* authorizes the Commission to approve the operation of an electric distribution system in the service area of another electric distribution system in certain circumstances, as follows:

26 Notwithstanding section 25, the Commission may approve the construction or operation of an electric distribution system in the service area of another electric distribution system if the Commission is satisfied that it is for the purpose of providing service to a consumer in that service area who is not being provided service by the distribution system approved to distribute electric energy in that service area.

37. Section 32 of the *HEEA* sets out the Commission's authority to, among other things, order the transfer of facilities associated with an REA's electric distribution system where that REA has its service area reduced by an order under Section 29:

32(1) If a rural electrification association

(a) under an order made under section 29,

(i) has the size of its service area reduced, or

(ii) ceases to operate in a service area or part of it,

or

(b) on being authorized under section 30 to do so, discontinues the operation of its electric distribution system,

the Commission may, when in the Commission's opinion it is in the public interest to do so and on any notice and proceedings that the Commission considers suitable, by

order transfer to another person the service area or part of it served by the rural electrification association.

- (2) When the Commission makes an order under subsection (1), it may
  - (a) for the purpose of ensuring the continued distribution of electric energy in the service area or part of it that was served by the rural electrification association, provide for
    - (i) the transfer of any facilities associated with the electric distribution system from the rural electrification association to another party, and
    - (ii) the operation of the electric distribution system or part of it by any party that the Commission directs, ...
- (3) In this section, “rural electrification association” means an association as defined in the *Rural Utilities Act* and that has as its principal object the supplying of electric energy in a rural area to the members of that association.

#### 4 Summary of the parties’ positions

38. In the sections that follow, the Commission summarizes each party’s position on the application.

##### 4.1 Views of FortisAlberta

39. FortisAlberta’s primary argument relied on the powers conferred on municipalities under Section 45 of the *MGA* as well as the terms of the MFAs granted to it under that section. It argued that Section 45 of the *MGA* authorizes municipalities to enter into MFAs with non-municipal public utilities in order to grant an exclusive right for the provision of electric distribution services and the maintenance of the electric distribution system within the municipal corporate boundaries.<sup>32</sup> FortisAlberta pointed to Clause 4 – *Grant of franchise* and Clause 12 – *Increase in municipal boundaries* in the MFA template approved in Decision 2012-255, and asserted that this clause confirms its exclusive right to serve within a municipal service area and operates to exclude other providers from such areas, including the REAs serving their members.<sup>33</sup>

40. In response to EQUUS’ IRs, FortisAlberta stated that an REA is not a “public utility” as an REA can provide service only to its members.<sup>34</sup> However, when responding to the Commission’s revised issues list in its argument, FortisAlberta submitted that a broad interpretation of “utility service” and “public utility” under the *MGA* is necessary to meet the public policy goals of such legislation.<sup>35</sup> It argued that for the purpose of this proceeding, “there is no real or meaningful distinction between REA service to a member and an REA serving a member of the

<sup>32</sup> Exhibit 22164-X0169, Responses to FAI-EQUESTREA-2017MAY01-001 to 012, May 18, 2017, AI-EQUESTREA-2017MAY01-002, PDF page 5 [FortisAlberta IR Responses to EQUUS].

<sup>33</sup> Exhibit 22164-X0169, FortisAlberta IR Responses to EQUUS, PDF page 6; Exhibit 22164-X0275, 2018-03-16 FortisAlberta Argument and Cover Letter, March 16, 2018, PDF page 6 [FortisAlberta Argument].

<sup>34</sup> Exhibit 22164-X0169, FortisAlberta IR Responses to EQUUS, PDF page 8.

<sup>35</sup> Exhibit 22164-X0275, FortisAlberta Argument, PDF page 19, paragraphs 41-42.

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public.”<sup>36</sup> FortisAlberta distinguished the concept of “public utility” used under the *MGA* from the Commission’s usual reference to a “public utility” with a statutory obligation to serve, noting that “public utilities” under the *MGA* include services such as public transportation and irrigation.<sup>37</sup> It also referenced the recent Alberta Court of Appeal decision in *Kozak v Lacombe (County)*, 2017 ABCA 351 (*Kozak*)<sup>38</sup> to support a broad interpretation of “public utility”, as follows:

The Court of Appeal’s decision therefore makes it clear that the meaning of “utility service” under the *MGA* is related to the definition of “public utility”, and dependent on the concept of a service being for “public consumption, benefit, convenience or use”, which may be similar in type to the service being provided.<sup>39</sup>

41. FortisAlberta submitted that EQUUS’ interpretation of the terms “public utility” and “utility service” were unduly narrow and inconsistent with *Kozak* as well as with a previous decision of the Commission’s predecessor, in which the Alberta Energy and Utilities Board declared a proposed wastewater pipeline a public utility under the *Public Utilities Act*.<sup>40</sup> FortisAlberta emphasized the use of “strictly private” in that decision, and submitted that the REAs cannot be said to be “strictly private.”<sup>41</sup>

42. FortisAlberta noted that EQUUS meets the requirements of a “public utility” identified in the *Kozak* decision, as it provides service through a physical configuration of utility lines, and it provides service to members of the public. FortisAlberta submitted that *Kozak* made it clear that the *MGA* authorizes municipalities to enact bylaws addressing municipal governance matters, and this authority includes the power to enact a bylaw confirming franchise agreements which are intended to exclude REAs.

43. In response to a Commission IR,<sup>42</sup> FortisAlberta submitted that the validity of an MFA is not dependent on whether the municipality has passed a bylaw under Section 46 of the *MGA*:

... Section 45 of the *MGA* confirms that municipalities have the legal capacity to enter into MFAs and does not link this capacity to the passing of a specific bylaw. In contrast, Section 46 of the *MGA* simply provides a municipality with the ability to pass a bylaw excluding third-party utility service providers from its jurisdiction in the event that the municipality decides that this kind of enforcement action is required.

<sup>36</sup> Exhibit 22164-X0275, FortisAlberta Argument, PDF page 24, paragraph 56.

<sup>37</sup> Exhibit 22164-X0275, FortisAlberta Argument, PDF page 19, paragraph 48.

<sup>38</sup> Exhibit 22164-X0275, FortisAlberta Argument, PDF page 20, citing *Kozak v Lacombe (County)*, 2017 ABCA 351 [*Kozak*].

<sup>39</sup> Exhibit 22164-X0275, FortisAlberta Argument, PDF page 19, paragraph 46.

<sup>40</sup> Exhibit 22164-X0275, FortisAlberta Argument, PDF page 22, paragraph 50, citing Alberta Energy and Utilities Board (EUB), [2007] AWLD 2368 dated March 16, 2006. In this decision, the EUB held that the definition [of a public utility] was not limited to providing services to the general public, or on a monopoly basis. The EUB stated that “all that is required is for the service to be provided directly or indirectly to “the public”, which is intended to distinguish these services from strictly private ones.”

<sup>41</sup> Exhibit 22164-X0275, FortisAlberta Argument, PDF page 23, paragraph 53.

<sup>42</sup> Exhibit 22164-X0163, FortisAlberta IR responses to AUC, PDF pages 10-11.

44. Therefore, FortisAlberta concluded that Section 45 of the *MGA* should be interpreted to exclude REAs from operating within municipal corporate boundaries where an MFA granting exclusivity rights has been executed with FortisAlberta.<sup>43</sup>

45. FortisAlberta submitted that should the Commission decide that Section 45 of the *MGA* does not exclude the affected REAs from providing service within municipal boundaries, the Commission may still grant the relief requested based on the broad powers conferred on municipalities under sections 3, 7, 8 and 9 of the *MGA*, and on the Alberta Court of Appeal's findings in *Kozak*.<sup>44</sup>

46. FortisAlberta argued that the Commission approved the MFAs under Section 139 of the *EUA* on the basis that the right granted to FortisAlberta by each of the municipalities to construct, operate and maintain the electric distribution system is necessary and proper for the public convenience.<sup>45</sup> FortisAlberta submitted that, "it would be antithetical for the Commission to now find that the identical agreement does not meet the public interest test to expand service territory under Section 29 of the *HEEA*",<sup>46</sup> as such a decision would prevent the previously approved exclusive franchise agreements from taking effect. Such an interpretation would also be contrary to the statutory interpretation principle of coherence, which recognizes that statutes are intended to work together.<sup>47</sup>

47. FortisAlberta argued that when the new language for the MFAs was proposed in Proceeding 1946,<sup>48</sup> a franchise application for the Town of Hinton, AFREA did not pursue any language clarifications, although it took part in developing the template prior to the application being filed.<sup>49</sup> Further, FortisAlberta stated that it engaged in a broad and extensive consultation process with a number of parties, including the Alberta Urban Municipalities Association and AFREA in advance of filing the application for the MFA template. FortisAlberta also pointed out that AFREA was involved and monitored Proceeding 1946, which led to Decision 2012-255, and notice of the application was issued according to Commission's standard practices.<sup>50 51</sup>

48. In FortisAlberta's view, it is in the public interest to harmonize its exclusive electric distribution service area with the annexed municipal boundaries.<sup>52</sup> FortisAlberta noted that the Commission has the express jurisdiction to amend service areas and related service area approvals pursuant to Section 29 of the *HEEA*, and submitted that alterations to the boundaries of the REAs' service areas are necessary and in the public interest as it would promote

<sup>43</sup> Exhibit 22164-X0275, FortisAlberta Argument, PDF page 24, paragraph 56.

<sup>44</sup> Exhibit 22164-X0275, FortisAlberta Argument, PDF page 42.

<sup>45</sup> Exhibit 22164-X0013, Application, PDF page 8.

<sup>46</sup> Exhibit 22164-X0275, FortisAlberta Argument, PDF page 27, paragraph 66.

<sup>47</sup> Exhibit 22164-X0275, FortisAlberta Argument, PDF page 27, paragraph 66, citing Ruth Sullivan, *Sullivan on the Construction of Statutes*, 5th ed (Markham: LexisNexis, 2008) at pages 223-224.

<sup>48</sup> Decision 2012-255: Town of Hinton, New Franchise Agreement Template and Franchise Agreement with FortisAlberta Inc., Application No. 1608547, Proceeding ID No. 1946, September 28, 2012.

<sup>49</sup> Exhibit 22164-X0275, FortisAlberta Argument, PDF page 36.

<sup>50</sup> Exhibit 22164-X0283, 2018-04-05 FortisAlberta Reply to Argument for Proceeding 22164, April 5, 2018, paragraph 6 [FortisAlberta Reply Argument], citing Exhibit 22164-X0195, AFREA Evidence Revisions BLACKLINE, July 4, 2017, Q&A 25 and 26, PDF page 9.

<sup>51</sup> Exhibit 22164-X0275, FortisAlberta Argument, PDF page 12. Exhibit 0011.01.AUC-1946, Notice of Application, June 19, 2012; and Exhibit 0012.01.AUC-1946, AUC Letter - Issuance of notice of application - June 25, 2012.

<sup>52</sup> Exhibit 22164-X0013, Application, PDF page 13.

harmonization. FortisAlberta submitted that the requested relief is consistent with, and similar in scope to that granted in previous Commission decisions, namely: Decision 2009-062: *The City of Red Deer Electric Distribution System Service Area Enlargement*<sup>53</sup> and Decision 2009-063: *ENMAX Power Corporation Service Area Expansion*.<sup>54</sup> FortisAlberta noted that in those decisions, the Commission found that the municipality or the municipal utility had the sole legal right to provide distribution service within the corporate boundaries of Red Deer and Calgary, respectively.<sup>55</sup> FortisAlberta relied on the following finding from the Commission's decision in Decision 2009-062:

The Commission finds that a consideration of the public interest strongly favours giving effect to the relevant legislation and the legislative scheme that suggests municipal service territories correspond to the boundaries of the municipalities. Specifically, it would be contrary to the public interest to deny [RD/EPC] any rights that were granted under section 45 of the *MGA*.<sup>56</sup>

49. FortisAlberta also indicated that the requested relief is consistent with past practices for transferring REA services in overlapping service areas where municipal annexations have occurred.<sup>57</sup>

50. Further, FortisAlberta stated that the affected REAs would be fairly compensated for transferred facilities and that the *Rural Utilities Act* contains provisions for members' change in service status and withdrawal from membership in the REAs.<sup>58</sup>

51. In response to AFREA's argument on contract law and the application of provisions, or implied provisions, in the Wire Owner Agreements (WOAs), FortisAlberta submitted that there is no implied term in the WOA that addresses transfer of sites when the site is annexed. FortisAlberta stated that AFREA had failed to satisfy what is a strict legal test to establish an implied term:

An implied term is governed by the doctrine of necessity; reasonableness and fairness are not sufficient to overcome the presumption. That a term is "consistent" with the WOA as a whole is not a reason to imply a term into a contract that has been carefully negotiated, drafted, and signed by sophisticated commercial parties.<sup>59</sup> [footnote removed]

52. FortisAlberta also noted that in the *Rural Utilities Act* or the *Rural Utilities Regulation*, there is no definition of "rural" or "rural areas", and even if a change in land description should occur before the transfer, the *MGA* and the *HEEA* do not provide timing constraints for when the transfer could occur.

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<sup>53</sup> Decision 2009-062: *The City of Red Deer Electric Distribution System Service Area Enlargement*, Application No. 1550523, Proceeding ID. 55, May 15, 2009 [Decision 2009-062].

<sup>54</sup> Decision 2009-063: *ENMAX Power Corporation Service Area Expansion*, Application No. 1552134, Proceeding ID. 56, May 15, 2009 [Decision 2009-063].

<sup>55</sup> Exhibit 22164-X0013, Application, PDF page 5.

<sup>56</sup> Exhibit 22164-X0275, FortisAlberta Argument, PDF page 38, paragraph 106 citing Decision 2009-062 at paragraph 53.

<sup>57</sup> Exhibit 22164-X0163, FortisAlberta IR responses to AUC, PDF pages 3-4.

<sup>58</sup> Exhibit 22164-X0275, FortisAlberta Argument, PDF pages 41-42.

<sup>59</sup> Exhibit 22164-X0283, FortisAlberta Reply Argument, PDF page 10.

## 4.2 Views of EQUUS

53. EQUUS submitted that the Commission should deny FortisAlberta's application based on the answer to what it characterized as a "threshold question." That question is whether the provisions of the *MGA* and the MFAs granted to FortisAlberta form a proper basis in law for the requested relief and orders. In EQUUS' submission they do not.<sup>60</sup> EQUUS argued that the exclusive franchise rights granted to FortisAlberta under the *MGA* are only in respect of a "utility service" as contemplated under that act. The distribution service that REAs provide to members located within a municipality is not a "utility service" as it is not for public consumption, use and benefit. Therefore, in EQUUS' submission, neither the *MGA* nor that MFAs granted under it operate to preclude an REA from concurrently providing electrical distribution service to its members within the municipal corporate boundaries.<sup>61</sup> According to EQUUS, this conclusion is consistent with the statutory framework in Alberta that recognizes the right of a customer to self-supply electricity by way of membership in an REA and with the principle of consistency and coherence in statutory interpretation.

54. EQUUS expanded on the above arguments in its response to the Commission's revised issues list. EQUUS noted that the definition of "utility service" requires, in turn, a consideration of the definition of "public utility" in the *MGA*, and that two requirements must be met in order for something to fall within the definition of "public utility."<sup>62</sup> Those requirements are firstly that there must be a physical system or works used to provide the service; and secondly the service must be provided for "public consumption, benefit, convenience or use."<sup>63</sup> EQUUS submitted that REAs only provide service to their members; and, as held by the Commission in Decision 2012-181,<sup>64</sup> are a form of self-supply.<sup>65</sup> On that basis, EQUUS argued that REAs do not serve the public as they are not providing a service for "public consumption, benefit, convenience or use." They therefore do not fall within the definition of "public utility" or "utility service" in the *MGA*.<sup>66</sup>

55. EQUUS further submitted that to equate "community infrastructure" such as a municipal sewage system, as discussed in *Kozak*, with the provincial statutory framework for the self-supply of electricity through REA membership is incorrect. EQUUS argued that the court's comments in *Kozak* on legislative objectives and policy have no application to this proceeding. None of the *Public Utilities Act*, the *HEEA*, or the *EUA* contemplate provision of sewage services as a matter connected with the Commission's regulation of a public or electric utility.<sup>67</sup> EQUUS reiterated that the relevant policy objectives in this proceeding are those underpinning the statutory framework for self-supply of electricity.

<sup>60</sup> Exhibit 22164-X0276, ID 22164 EQUUS Final Argument, March 16, 2018, PDF page 5, paragraphs 11 (i) to (iii) [EQUUS Argument].

<sup>61</sup> Exhibit 22164-X0276, EQUUS Argument, PDF page 10, paragraph 16.

<sup>62</sup> Exhibit 22125-X0276, EQUUS Argument, PDF page 15, paragraph 35.

<sup>63</sup> Exhibit 22164-X0192, EQUUS Evidence Proceeding ID 22164, June 26, 2017, PDF page 13, Q&A 20 [EQUUS Evidence].

<sup>64</sup> Decision 2012-181: *Central Alberta Rural Electrification Association Limited Application for a Declaration under the Hydro and Electric Energy Act*, Application No. 1606623, Proceeding ID No. 886, July 4, 2012, [Decision 2012-181].

<sup>65</sup> Exhibit 22164-X0192, EQUUS Evidence, PDF page 11, Q&A 14.

<sup>66</sup> Exhibit 22164-X0192, EQUUS Evidence, PDF pages 4 and 20-21.

<sup>67</sup> Exhibit 22125-X0282, ID 22164 EQUUS Reply Argument, April 5, 2018, PDF page 17, paragraphs 54-56 [EQUUS Reply Argument].

56. EQUUS also argued that since no municipality registered in this proceeding to support FortisAlberta, nor has any municipality performed any covenants under the MFAs to require REAs to sell assets to FortisAlberta,<sup>68</sup> the Commission is entitled to draw an adverse inference from this lack of support.<sup>69</sup>

57. In its evidence and argument, EQUUS further argued that there are additional and alternative reasons to deny FortisAlberta's application.

58. In EQUUS' submission, granting the applied-for relief would not be in the public interest for the purposes of Section 29 of the *HEAA*. EQUUS asserted that the test to be applied in determining what is in the public interest pursuant to Section 29 of the *HEEA* is as follows:

... the public interest standard will generally be met by an activity that benefits the segment of the public to which the legislation is aimed, while at the same time minimizing, or mitigating to an acceptable degree, the potential adverse impacts on more discrete parts of the community.<sup>70</sup>

59. EQUUS submitted that the application of this test to the evidence in this proceeding clearly demonstrates FortisAlberta's application should be denied. There is no benefit to the public at large from the granting of the requested orders, but the orders would have a "permanent, material and substantial" adverse effect on EQUUS and its members.<sup>71</sup> EQUUS stated that the requested orders would also have a lasting adverse impact on municipalities. Municipalities would have no entity other than FortisAlberta to grant a franchise to in the future, therefore limiting municipalities' rights to grant a franchise for providing electric distribution services.<sup>72</sup>

60. EQUUS also argued that prior public interest findings made in relation to approval of the MFA template in Decision 2012-255 are irrelevant, prejudicial and no weight should be placed on the Commission's findings in that proceeding. In EQUUS' submission, this is because REAs were not given specific notice of the proceeding and therefore, were, "being denied the opportunity to provide submissions on matters which would have directly and adversely affected them."<sup>73</sup>

61. EQUUS further argued that the other Commission decisions relied on by FortisAlberta to support its application do not apply in the present circumstances. EQUUS claimed that neither Decision 2009-062 nor Decision 2009-063 have any application to the matters currently before the Commission, as the factors and legislation at play are not comparable. EQUUS argued that Section 29(3)(b) of the *HEEA*, relating to local authorities, was at issue in those proceedings. EQUUS noted that FortisAlberta is not a "local authority"<sup>74</sup> and therefore, "does not enjoy the deference accorded to municipal utilities" under Section 29(3).<sup>75</sup> EQUUS also submitted that those

<sup>68</sup> Transcript, Volume 1, pages 87-88.

<sup>69</sup> Exhibit 22164-X0276, EQUUS Argument, paragraph 11(viii).

<sup>70</sup> Exhibit 22164-X0276, EQUUS Argument, PDF page 33, paragraph 107, citing Exhibit 22164-X0192, EQUUS Evidence, Q&A 32.

<sup>71</sup> Exhibit 22164-X0192, EQUUS Evidence, Q&A 43 and 44;  
Exhibit 22164-X0276, EQUUS Argument, PDF page 63.

<sup>72</sup> Exhibit 22164-X0192, EQUUS Evidence, Q&A 33 and 34;  
Exhibit 22164-X0276, EQUUS Argument, PDF page 40.

<sup>73</sup> Exhibit 22164-X0276, EQUUS Argument, PDF pages 49-50.

<sup>74</sup> Exhibit 22164-X0192, EQUUS Evidence, Q&A 43.

<sup>75</sup> Exhibit 22164-X0276, EQUUS Argument, PDF page 45, paragraph 151.

decisions did not deal with overlapping REA service areas and did not consider the framework of REAs as a form of self-supply.<sup>76</sup>

62. As a further argument against the application, EQUUS submitted that the alteration of its service area to exclude municipalities would prevent it from self-retailing and this would be inconsistent with Section 45.1 of the *MGA*, which specifically exempts retailers from any exclusive grant by a municipality.<sup>77</sup>

63. Finally, EQUUS contended that the requested relief is flawed and is beyond the jurisdiction of the Commission because the Commission has no power to alter service area boundaries of REAs on a contingent prospective basis.<sup>78</sup>

### 4.3 Views of AFREA

64. AFREA argued that the issue in this proceeding turns on contract law and the correct application of Section 3 of the *EUA* and Section 25 of the *HEEA*, rather than an interpretation of Section 45 of the *MGA*. Nonetheless, in its argument in response to the Commission's issues list, AFREA addressed the interpretation of the *MGA*. It submitted that "public utility" has a broader definition in the *MGA* than the definition analysed in Decision 2012-181.

65. AFREA noted that under the principles of statutory interpretation an act must be read in its entirety and in keeping with the purpose of the act.<sup>79</sup> Section 3 of the *MGA* sets out the purposes of a municipality which include "to provide good government", "to provide services, facilities or other things that, in the opinion of council, are necessary or desirable for all or a part of the municipality", and, "to develop and maintain safe and viable communities."<sup>80</sup> AFREA stated:

The *MGA* defines "public utility" as something that a person provides to the public opposed to the industry context of "public utility" as something that defines your identity within the industry. Specifically, *MGA* states:

"public utility" means a system or works used to provide one or more of the following for public consumption, benefit, convenience or use:...electric power...

Statutory interpretation suggests that the Act ought to be read in its entirety and in keeping with the purpose of the Act. When we read the *MGA* s 1(1)(y)(iiv) in the context of s 3, the *MGA* clearly governs the provision of services to the citizens of a municipality (the public) and in this sense, the term "public utility" holds a broad meaning as electric power services provided to the public.<sup>81</sup>

<sup>76</sup> Exhibit 22164-X0276, EQUUS Argument, PDF pages 44, 46 and 47.

<sup>77</sup> Exhibit 22164-X0276, EQUUS Argument, PDF page 24.

<sup>78</sup> Exhibit 22164-X0192, EQUUS Evidence, Q&A 40 and Exhibit 22164-X0276, EQUUS Argument, PDF page 50.

<sup>79</sup> Exhibit 22164-X0277, AFREA Argument, March 16, 2018, PDF page 22, paragraph 72, [*AFREA Argument*] citing Ruth Sullivan, *Sullivan on the Construction of Statutes*, 5<sup>th</sup> ed (Markham, ON: Butterworths, 2008), pages 1-3.

<sup>80</sup> Exhibit 22164-X0277, AFREA Argument, PDF page 22, paragraph 72.

<sup>81</sup> Exhibit 22164-X0277, AFREA Argument, PDF page 22, paragraph 72.



66. It was AFREA's legal opinion that an REA does not serve the public; it provides electrification services to its members only.<sup>82</sup>

67. AFREA submitted that the Commission's characterization of REAs in Decision 2012-181 as a form of self-supply and the broader interpretation of "utility service" in the *MGA* are both equally valid and not mutually exclusive.<sup>83</sup> AFREA further noted that the *MGA* is silent on the issue of self-supply, but that presumably the legislative context of Section 24 of the *HEEA*<sup>84</sup> and the *Micro-Generation Regulation*<sup>85</sup> steps into the void. This act and regulation permit exemptions to self-supply generators and distributors within the narrow context of the *Micro-Generation Regulation*, if not exemptions in the MFAs directly.<sup>86</sup>

68. AFREA's primary arguments focused on the applicability of contract law. AFREA argued that Decision 2012-181 identified that legislation accounts for an overlap of service areas through legislated contracts between REAs and utilities, and such contracts are governed by the *Roles Relationships and Responsibilities Regulation*.<sup>87</sup> Under that scheme, all parties with overlapping service areas are required to integrate operations under contract, such as WOAs.<sup>88</sup> In its evidence AFREA stated that the historical practice is for municipalities to grandfather certain aspects of rural life in annexed areas unless and until land use changes or development occurs.<sup>89</sup> Further, the representative from North Parkland during the oral hearing stated that<sup>90</sup>:

[...] when you're doing an annexation, generally speaking, or typically, there is a period of time in which the newly annexed residents are required to comply with the existing bylaws because there's other agreements that are made with those residents that says -- so, for instance, on a water bylaw, you are required to connect to municipal services. But under an annexation, you might be given the opportunity to comply within a period of time. Could be 20 years. But typically it's when it's a triggering event occurs, such as development. [...] And from North Parkland Power's perspective, our opinion is that this is in the same regard, whether it's electricity or water or wastewater. When that triggering event occurs is when it's proper timing to convert that "member," to a customer.

<sup>82</sup> Exhibit 22164-X0212, Attachment A - Legal Opinion, July 24, 2017, PDF pages 5-6.

<sup>83</sup> Exhibit 22164-X0277, AFREA Argument, PDF page 25, paragraph 88.

<sup>84</sup> *HEEA*, s 24:

(1) A person distributing or proposing to distribute electric energy solely on land of which the person is the owner or tenant for use on that land and

(a) not across a public highway, or

(b) across a public highway if the voltage level of the distribution is 750 volts or less is not subject to this Part unless the Commission otherwise directs.

(2) A person referred to in subsection (1) shall, when required by the regulations to do so, immediately notify the Commission of the use or proposed use of the distribution and shall provide any further information relating to the distribution or use that the Commission requires.

<sup>85</sup> Alta Reg 27/2008.

<sup>86</sup> Exhibit 22164-X0277, AFREA Argument, PDF page 24, paragraph 81.

<sup>87</sup> Exhibit 22164-X0277, AFREA Argument, PDF pages 7 to 9.

<sup>88</sup> Exhibit 22164-X0217, Attachment A to FAI IR Responses – WOAs, July 24, 2017.

<sup>89</sup> Exhibit 22164-X0186, AFREA Evidence, June 26, 2017, PDF page 6, Q&A 12 [AFREA Evidence].

<sup>90</sup> Transcript, Volume 2, page 232.

69. Based on these asserted historical practices, AFREA submitted that there is an implied term in the applicable WOAs that governs the transfer of sites upon annexation. AFREA argued that such an implied term is a legal aspect of the contract and should be binding, based on the “officious bystander” or “business efficacy” tests.<sup>91</sup> AFREA stated:

... grandfathering an annexed site is an implied term of the contract that is binding upon FortisAlberta; the surrounding circumstances indicate that this implied term is consistent with the contract as a whole, represents standard industry practice, is notorious, and reasonable and obviously a term of the agreement notwithstanding that it is not expressed in the WOA.<sup>92</sup>

70. AFREA added that it is not in the public interest to approve the relief requested as this would allow for a breach of an implied term in a contract that governs the relationship in overlapping service areas.<sup>93</sup>

71. AFREA also argued that approving FortisAlberta’s application is not in the public interest because it, “embarrasses the legislative process, flies in the face of Decision 2012-181, and violates a positive burden that FAI [FortisAlberta] had under Section 3 of the *EUA* when they originally brought their MFA applications to the Commission.”<sup>94</sup> Regarding the latter, AFREA argued that FortisAlberta failed to meet the disclosure burden when initially applying for the approval of the MFAs template in Proceeding 1946. More specifically, the record of that proceeding did not specifically address the fact that REA members could be divested of their equitable interest in the REA.<sup>95</sup> In its evidence, AFREA noted that it was involved in and monitored the proceeding and that it was engaged in stakeholder conversations to determine whether the proposed new municipal franchise agreement template had fundamentally changed from the original 2001 version. However, it stated it did not participate in any other way in Proceeding 1946.<sup>96</sup>

## 5 Discussion of issues and Commission findings

72. This application requires the Commission to determine whether it is in the public interest to alter the electric distribution service area boundaries and grant the ancillary relief requested by FortisAlberta. Each of the parties approached this fundamental issue from a different perspective.

73. FortisAlberta argued that it is in the public interest to harmonize FortisAlberta’ exclusive electric distribution service area with the corporate boundaries of the affected municipalities and grant its application because:

<sup>91</sup> Exhibit 22164-X0277, AFREA Argument, PDF page 11, paragraph 34.

<sup>92</sup> Exhibit 22164-X0277, AFREA Argument, PDF page 12, paragraph 38.

<sup>93</sup> Exhibit 22164-X0277, AFREA Argument, PDF page 16, paragraph 48.

<sup>94</sup> Exhibit 22164-X0277, AFREA Argument, PDF page 16, paragraph 46.

<sup>95</sup> Exhibit 22164-X0277, AFREA Argument, PDF page 17, paragraph 53.

<sup>96</sup> Exhibit 22164-X0186, AFREA Evidence, PDF page 9, Q&A 26-28.

- i. The application seeks to give effect to:
    - The clear provisions of sections 45 to 47 of the *MGA*, which afford municipalities the power to govern the provision of non-municipal public utilities within their recognized jurisdiction through agreements and bylaws;<sup>97</sup> and
    - The clear intention of the affected municipalities, as expressed through the applicable MFAs.<sup>98</sup>
  - ii. A significant factor that should inform the Commission's consideration of the public interest under section 29 of *HEAA* is the legislative intent of the *MGA* as a whole.<sup>99</sup> Sections 3, 7, 8 and 9, of the *MGA* confer broad powers on a municipality to govern in the best interests of its citizens and to enact bylaws to address municipal governance matters including the provision of public utility service within its municipal boundaries.<sup>100</sup> The Alberta Court of Appeal has recently confirmed in *Kozak* that a broad purposive interpretation of the *MGA* is necessary to meet the public policy goals of such legislation.<sup>101</sup>
  - iii. The relief sought by its application is consistent with and similar in scope to, previous decisions of the Commission, which have held that harmonization of municipal boundaries with service areas is in the public interest; and that conversely, it would be contrary to the public interest to deny a municipality rights granted to it under the *MGA*.<sup>102</sup>
  - iv. The Commission has approved the applicable MFAs under Section 139 of the *EUA* and it would be antithetical for the Commission to find that alteration of the service area boundaries, to correspond with those agreements, is not in the public interest.<sup>103</sup>
  - v. Broadly interpreting the powers conferred to municipalities under the *MGA* in relation to the provision of community infrastructure is entirely consistent with the public policy objective of avoiding the duplication of electric distribution services.<sup>104</sup>
74. Of the foregoing, FortisAlberta's primary argument appeared to be that based on Section 45 of the *MGA*.

<sup>97</sup> Exhibit 22164-X0275, FortisAlberta Argument, paragraphs 6(a), 57-59, 67; Exhibit 22164-X0283, FortisAlberta Reply Argument, paragraph 61.

<sup>98</sup> Exhibit 22164-X0275, FortisAlberta Argument, paragraphs 57, 87-88, 137.

<sup>99</sup> Exhibit 22164-X0275, FortisAlberta Argument, paragraph 83; Exhibit 22164-X0283, FortisAlberta Reply Argument, paragraph 102.

<sup>100</sup> Exhibit 22164-X0275, FortisAlberta Argument, paragraphs 58, 62-63, 83.

<sup>101</sup> Exhibit 22164-X0275, FortisAlberta Argument, paragraph 64, citing *Kozak*, paragraphs 71-72.

<sup>102</sup> Exhibit 22164-X0275, FortisAlberta Argument, paragraphs 6(c), 6(d); Exhibit 22164-X0283, FortisAlberta Reply Argument, paragraphs 3, 61, 63-64.

<sup>103</sup> Exhibit 22164-X0275, FortisAlberta Argument, paragraphs 6(b), 66; Exhibit 22164-X0283, FortisAlberta Reply Argument, paragraphs 65-69.

<sup>104</sup> Exhibit 22164-X0275, FortisAlberta Argument, paragraphs 64-65.

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75. EQUUS offered detailed arguments for why Section 45 of the *MGA* cannot operate to exclude REAs from operating within the boundaries of the signatory municipalities. EQUUS' argument centred on the concept that REAs are not "public utilities" for the purpose of Section 45 of the *MGA*, and that this section must be interpreted and applied so as to avoid the conflict with the legislative scheme providing for REAs as a means of voluntary self-supply. EQUUS also argued that the Commission should deny FortisAlberta's application on a number of alternative grounds, including general public interest considerations. With respect to the latter, EQUUS focused in particular on the expected adverse impact of the requested relief on the REAs and their individual members.

76. AFREA offered extensive argument in support of its primary position that FortisAlberta's application should be considered and determined through the application of contract law principles rather than as a matter of statutory interpretation. AFREA also argued that it is not in the public interest to grant FortisAlberta's application, emphasizing, as did EQUUS, that to do so would create adverse effects on REAs and their individual members.

77. For the reasons described in the sections below, the Commission:

- Rejects AFREA's argument that FortisAlberta's application must be considered and determined according to contract law principles; and
- Finds that the requested alteration of service area boundaries is in the public interest under Section 29 of the *HEEA*, but the transfer of existing REA facilities and customers does not need to be effected immediately.

### 5.1 The WOAs and contract law principles are not determinative of the application

78. As described in Section 4, AFREA offered extensive argument in support of its primary position that FortisAlberta's application should be considered and determined through the application of contract law principles and more particularly, the provisions of the WOAs entered into by REAs and FortisAlberta under the *Roles, Relationships and Responsibilities Regulation*.

79. Section 7 of the *Roles, Relationships and Responsibilities Regulation* provides the framework to facilitate the overlapping provision of electric distribution service to customers in a single geographic region. The regulation provides that owners of electric distribution systems with overlapping service areas, such as FortisAlberta and an REA, must integrate operations under a contract. These contracts are defined as "integrated operation agreements"<sup>105</sup> under the regulation, and those between FortisAlberta and AFREA members follow the sample WOA filed in this proceeding by AFREA.<sup>106</sup> The *Roles, Relationships and Responsibilities Regulation* in effect creates a legislatively mandated contract that must be in place between owners of electric distribution systems if they operate in overlapping service areas.

<sup>105</sup> *Roles, Relationships and Responsibilities Regulation*, 2003, Alta Reg 169/2003, s 7(a): "integrated operation agreement" means an agreement between owners respecting the integrated operation of their electric distribution systems in a single geographic region."

<sup>106</sup> Exhibit 22164-X0186, AFREA Evidence, PDF page 8; Exhibit 22164-X0162, Attachment FAI-AUC-2017MAY01-001.01 Sample 2005 Wire Owner Agreement.

80. AFREA's position is essentially that:

- The terms of the WOAs prevail over the statutory scheme established under the *MGA*, *EUA*, the *HEEA*, and the enabling legislative scheme for REAs including the *Rural Utilities Act*; and
- The WOAs should be interpreted to include an implied term that operates to grandfather annexed sites until there is a change in land use or development occurs.

81. The Commission cannot accept AFREA's contention that contract law principles and more particularly, the provisions of the WOAs entered into by REAs and FortisAlberta, are determinative of this application.

82. There is nothing in the *Roles, Relationships and Responsibilities Regulation* that ousts or in any way limits the Commission's statutory responsibility to determine an application made under Section 29 of the *HEAA* based on public interest considerations. Likewise, there is nothing in the WOAs established between AFREA's member REAs and FortisAlberta under that regulation that could have that effect. Parties cannot contract out of legislation, and more particularly cannot, by agreement, preclude or limit the Commission's consideration of the public interest in its determination of an application made under Section 29 of the *HEAA*. The terms of relevant WOAs may be a factor considered by the Commission in its assessment of the public interest, but they are not determinative of that assessment.

83. Further, and in any event, AFREA relies not on the express terms of the WOAs, but on a term that it submits the Commission should imply into those agreements. AFREA has failed to satisfy the Commission that the legal test for finding such an implied term in the WOAs is met. More specifically, AFREA has failed to persuade the Commission that there is an implied term in the WOAs that requires a change in land use or development as a form of triggering event before site transfers can occur in the case of annexed land.

84. AFREA argued that implying a term requiring a change in land use or development as a form of triggering event for site transfers in the case of annexed land into the WOAs is warranted in the circumstances of this proceeding for a number of reasons.

85. First, AFREA submitted that the WOAs arguably define what is rural and not rural for the purpose of identifying sites and customers who ought to be considered REA members or FortisAlberta customers.<sup>107</sup> Specifically, AFREA identified Clause 3.01 of its standard WOA as providing a "grandfather clause" that applies to REA facilities within annexed lands.<sup>108</sup>

#### Membership

##### 3.01 Eligibility

- (a) the REA has the right to provide Electricity Services within the Service Area to all persons that the REA has determined, acting reasonably, will use such Electricity Services for the purpose of new residential use and Agricultural Activities, regardless of size or incorporation status that are outside the boundaries of a City, Town,

<sup>107</sup> Exhibit 22164-X0277, AFREA Argument, PDF page 11, paragraph 33.

<sup>108</sup> Exhibit 22164-X0211, Response to AFREA-AUC-2017JUL10, July 24, 2017, PDF pages 2-3 [AFREA IR response to AUC].

Village, Summer Village, or Hamlet. This shall include, but not be limited to first right of refusal by the REA for all new rural subdivisions and additions to existing rural subdivisions (except as noted in subsection 3.01 (c) hereof). Examples of these services include but are not limited to:

- (i) irrigation / pumping water for growing crops, application of pesticides and herbicides, watering animals, rural pumping station, sod farms or other agricultural related services;
  - (ii) addition of small workshops i.e. welding, woodworking shop or machine shop on the farm for diversifying and/or subsidizing the agricultural income;
- (b) all Electricity Services to Consumers as at the Effective Date shall continue to be served by the respective current wire owner unless mutually agreed otherwise by the REA, Consumer and Company;
- (c) the Company has the right to provide Electricity Services within the Service Area to all other persons generally defined as non agricultural, industrial, institutional and subdivisions in excess of 300 constructed or planned services reflected in an approved subdivision plan. Examples of such services include but are not limited to:
- (i) individually metered or non-metered, non agricultural services, industrial services, gas and oil field production and institutional services;
  - (ii) auction marts, commercial grain elevators and other commercial crop storage facilities and commercial bulk feed mills including commercial drying and treating facilities;
  - (iii) bulk fertilizer, chemical distribution plants, bulk fuel plants, farm implement and other retail dealerships;
  - (iv) breeding of domestic pets specifically dogs and cats including kennels;
  - (v) golf courses and camp grounds;
  - (vi) peat moss extraction, natural resource extraction activity;
  - (vii) a non agricultural activity business of a Member that has been established for the purpose of producing or selling non-agricultural products in the marketplace or has grown to the point where it is competing in the marketplace; or
  - (viii) irrigational / pumping of water for municipalities, recreational services.<sup>109</sup>

86. In AFREA's view, Clause 3.01 allows an REA to continue to provide services notwithstanding any changes in service territory unless either: (i) "the construction on the land shifts the member into the category outlined in section 3.01(c)"; or (ii) "the parties mutually agree."<sup>110</sup> As such, AFREA argued that implying a term requiring a change in land use or development as a form of triggering event for site transfers in the case of annexed land would be consistent with the WOA as a whole.

<sup>109</sup> Exhibit 22164-X0190, Attachment C, Sample WOA, June 26, 2017, PDF page 1.

<sup>110</sup> Exhibit 22164-X0211, AFREA IR response to AUC, PDF page 2.

87. Second, AFREA alleged that the past practice between FortisAlberta and the REAs with respect to the timing of site transfers has risen to the level of an implied term. AFREA submitted that REAs have relied upon a change in land use or development as a form of “triggering event” for negotiations with FortisAlberta for the transfer of sites from the REA to FortisAlberta. AFREA further argued that the historical chronological gap between annexations and site transfers<sup>111</sup> is not, as suggested by FortisAlberta, a timing issue with the municipality; but rather, indicative of an industry standard in relation to the determination of what is “rural” and “not rural.” AFREA argued that extensive past reliance on a land use change as a “triggering event” for site transfers is akin to a convention in law and is therefore an implied term.

88. Third, AFREA argued that the implied term is capable of being clearly articulated: “when an REA site is annexed, the site remains with the REA until such time as land use changes or development occurs.”<sup>112</sup>

89. AFREA submitted that when an implied term, “is reasonable when understood within the context of the whole agreement, and is a notorious term that is consistent with the contract, the implied term is enforceable.”<sup>113</sup>

90. The arguments of FortisAlberta in response to those of AFREA include FortisAlberta’s assertions that: there is a presumption against implying terms in a contract;<sup>114</sup> and, as implied terms are governed by the doctrine of necessity, reasonableness and fairness are not sufficient to overcome the presumption.<sup>115</sup>

91. The Commission accepts that contract law allows terms to be implied into contracts in certain, very limited circumstances. The principles governing when an implied term can arise in a contract have been expressed in multiple decisions by the Supreme Court of Canada (SCC) and iterated in *MJB Enterprises Ltd. v Defence Construction (MJB Enterprises)* as follows:

[T]erms may be implied in a contract: (1) based on custom or usage; (2) as the legal incidents of a particular class or kind of contract; or (3) based on the presumed intention of the parties where the implied term must be necessary “to give business efficacy to a contract or as otherwise meeting the ‘officious bystander’ test as a term which the parties would say, if questioned, that they had obviously assumed”.<sup>116</sup>

92. Having regard to these principles, the Commission agrees with FortisAlberta that the alleged implied terms’ consistency with the general agreement is not sufficient to imply a term into a contract negotiated and drafted by sophisticated commercial parties. As for the alleged past practice, even if the Commission accepts that such a practice existed, it is not satisfied that such a practice equates to the type of “industry standard” or common and “notorious” practice required to meet the legal test for an implied contractual term. The implied term test, as iterated

<sup>111</sup> See e.g. Exhibit 22164-X0277, AFREA Argument, PDF page 13, citing Exhibits 22164-X0196, AFREA Evidence Revisions CLEAN [AFREA Evidence Revisions] and 22164-X0189, Attachment D - Fortis Letter to Rocky; 22164-X0238, AFREA letter on requested next steps, among others.

<sup>112</sup> Exhibit 22164-X0277, AFREA Argument, PDF page 15, paragraph 44.

<sup>113</sup> Exhibit 22164-X0277, AFREA Argument, PDF page 11, paragraph 34.

<sup>114</sup> *Benfield Corporate Risk Canada Limited v Beaufort International Insurance Inc.*, 2013 ABCA 200 at paragraph 112.

<sup>115</sup> Exhibit 22164-X0283, FortisAlberta Reply Argument, PDF page 10, paragraphs 23 and 26.

<sup>116</sup> *Canadian Pacific Hotels Ltd. v Bank of Montreal*, [1987] 1 SCR 711, page 75; *MJB Enterprises Ltd. v Defence Construction (1951)*, [1999] 1 SCR 619, paragraph 27.

by the courts, is stricter than AFREA expressed and has not been met in the circumstances of this proceeding.

**5.2 Public interest considerations favour alteration of the service area boundaries, but not necessarily the immediate transfer of existing REA facilities and customers**

93. Under Section 29 of the *HEEA*, the Commission may alter the boundaries of the service area of an electric distribution system or order that an electric distribution system cease to operate in a service area or part of it when, in its opinion, it is in the public interest to do so and on any notice and proceedings that the Commission considers suitable.

94. There is no singular articulation of the public interest test. The determination of the public interest in any proceeding is dependent on the circumstances specific to that proceeding. Nevertheless, previous decisions may offer guidance. In this case, the Commission takes guidance from Decision 2012-181, where the Commission expressed the general principle that, “The public interest must be ascertained first by reference to the legislative scheme and, most particularly, what the legislature intended.”<sup>117</sup> The Commission also takes guidance from Decision 2009-062, in which it articulated the public interest test in circumstances that closely approximate those in this proceeding. Although the Commission in this proceeding is not subject to the “compelling reasons” standard discussed in Decision 2009-062,<sup>118</sup> the Commission’s description of the considerations relevant to its general public interest determination in that decision are instructive. The Commission stated:

The Commission will consider whether the Application is in the public interest by having regard to its social and economic effects. In the Commission’s view, assessment of the public interest requires it to have regard to the rights afforded the municipality as well as consideration of any negative consequences associated with the enlargement of a municipally-owned electric system. The Commission adopts the approach of its predecessor, the EUB, that the public interest standard will generally be met by an activity that benefits the segment of the public to which the legislation is aimed, while at the same time minimizing, or mitigating to an acceptable degree, the potential adverse impacts on more discrete parts of the community.<sup>119</sup> [citations removed]

<sup>117</sup> Decision 2012-181: *Central Alberta Rural Electrification Association Limited, Application for a Declaration under the Hydro and Electric Energy Act*, Application No. 1606623, Proceeding ID No. 886, July 4, 2012, paragraph 104.

<sup>118</sup> As noted by EQUUS and AFREA, a different test pursuant to Section 29(2)(3) applies where the electric distribution system in question is owned and operated by a local authority, which applied in the cases cited by FortisAlberta. In Decision 2009-062, the Commission considered an application under Section 29(3) of the *HEEA* to expand existing service area boundaries of the city of Red Deer to coincide with a municipal annexation. Section 29(3) provides that when a “local authority” (i.e. a municipality such as Red Deer) applies for an enlargement of its service area, the Commission shall “grant the application unless after a public hearing the Commission finds compelling reasons in the public interest not to do so.” In this proceeding, the application is not brought by a “local authority” and therefore the Commission is not subject to the requirement to grant the application absent “compelling reasons” not to do so.

<sup>119</sup> Decision 2009-062: paragraph 21, citing EUB Decision 2001-33: *EPCOR Power Development Corporation and EPCOR Generation Inc., Rossdale Power Plant Unit 11 (RD 11)*, Application No. 990289, May 2001.



95. Accordingly, the Commission will consider whether FortisAlberta's application is in the public interest having regard to its social and economic effects. The Commission considers that this assessment requires it to have regard for the statutory context under which the application has been brought in order to determine whether the requested relief "benefits the segment of the public to which the legislation is aimed" while minimizing or mitigating any potential adverse effects to an acceptable degree.

96. As described in detail above, all three parties advanced various arguments as to whether it is in the public interest to grant the applied-for alteration of the affected REA service area boundaries. FortisAlberta offered extensive argument in support of its primary position that the public interest requires the alteration of service area boundaries in the circumstances of this proceeding to give effect to Section 45 of the *MGA* and the MFAs granted pursuant to it. EQUUS offered extensive arguments in opposition to those of FortisAlberta. Central to the position advocated by EQUUS on these points was the question of whether REAs provide utility service, or are public utility service providers within the meaning of the *MGA*. The interpretations of "utility service" and "public utility" offered by each of FortisAlberta and EQUUS, and their respective conclusions as to whether REAs provide utility service, were diametrically opposed.

97. The Commission considered the interpretations of "utility service" and "public utility" offered by parties, and concluded that it is not necessary, for the purposes of this application, to determine whether an REA provides "utility service" as defined in the *MGA*. As stated, the purpose and scope of the application, which was brought pursuant to Section 29 of the *HEEA*, requires the Commission to determine what is in the public interest. In this decision, the Commission considered the MFAs and the municipalities' exercise of authority pursuant to the *MGA*, including Section 45, subsumed under the broader issue of what is in the public interest.

98. The Commission is satisfied that the alteration of the REA service areas as requested by FortisAlberta is in the public interest. This is because granting the applied-for alteration of boundaries:

- i. Harmonizes the service areas to reflect the boundaries governed by the MFAs and is consistent with the Commission's previous approval of those agreements.
- ii. Best supports the public policy objective of avoiding unnecessary duplication of facilities.
- iii. Is most consistent with the legislated purpose of municipalities and REAs.
- iv. Best supports or gives effect to the broad public policy goals of the *MGA* as a whole and the intent of the legislature in establishing and empowering municipalities. As a corollary, it would be contrary to the public interest to deny the municipalities the authority granted under the *MGA* and to disregard their express intentions.

Each of the above findings and the reasons in support are discussed in greater detail below.

*Harmonization of approved service areas and MFAs*

99. In granting its approval under Section 139 of the *EUA*, the Commission has already determined, with respect to each municipality and MFA included in FortisAlberta's application, that the franchise is necessary and proper for the public convenience and properly serves the public interest. For the same reasons, harmonizing the service areas to reflect the boundaries governed by the MFAs is necessary and proper for the public convenience and properly serves the public interest.

*Avoids unnecessary duplication of facilities*

100. Practical reasons, including the public policy objective of avoiding unnecessary duplication in facilities, support the requested alteration of service area boundaries. In Decision 2012-181, the Commission recognized that:

...the fundamental economic rationale for regulating electrical distribution companies is that there is an assumption that distribution service is a natural monopoly. As such, it would not be economically efficient for there to be competition and duplication of these services.<sup>120</sup>

101. However, the Commission went on to conclude:

Notwithstanding this recognition, rural electrification associations were created and have grown along-side public electric utilities, both of which are now providing distribution services in overlapping geographic areas, although not to the same customers. The distinguishing feature which has enabled both the REAs and the public distribution utilities to determine who would serve a rural customer has always and continues to be whether the customer is a member of an REA.<sup>121</sup> [emphasis added]

102. The exception to avoiding duplication of facilities contemplated in Decision 2012-181 was expressed in the context of serving rural customers, and does not apply in circumstances where the customers are located within an urban municipality that has chosen to give an exclusive franchise to one electric distribution utility.

103. The Commission finds that avoiding duplication of services within the boundaries of an urban municipality (where that municipality has exercised its discretion to grant an exclusive franchise) is efficient in the absence of evidence that the electric distribution provider chosen by the municipality is not able or willing to provide reasonable and sufficient service to all customers on fair and reasonable terms. The Commission is satisfied that the service provided by FortisAlberta is reasonable and sufficient, and that FortisAlberta is in a position to serve the annexed areas (to the extent it is not already doing so). No persuasive evidence to the contrary was presented.

<sup>120</sup> Decision 2012-181: paragraph 101.

<sup>121</sup> Decision 2012-181: paragraph 102.

***Consistent with the legislated purpose of municipalities and REAs***

104. All of the affected municipalities are urban municipalities (a city, town, village or summer village) that have had their municipal boundaries expanded through one or more annexations. Alteration of the REAs' service area boundaries to correspond with the municipal boundaries in such circumstances is consistent with the urbanization of the annexed areas and with the principal purpose of municipalities as distinct from the principal object of REAs:

- The purpose of municipalities, as identified in Section 3 of the *MGA* is, among other things, to provide services, facilities and other things that, in the opinion of council, are necessary or desirable for the municipality and to develop and maintain safe and viable communities.
- In contrast, REAs are formed “with the principal object of supplying...electricity...to its members primarily in a rural area...”<sup>122</sup>

The Commission is not persuaded by EQUUS' argument that the principal object of REAs as identified in the *Rural Utilities Act*, “is confined to the initial formation of an REA ....”<sup>123</sup> The plain language of the *Rural Utilities Act* does not reasonably support such an interpretation. Moreover, the interpretation advanced by EQUUS is inconsistent with other evidence on the record that REAs serve rural customers, including the evidence submitted by AFREA that an REA should supply electricity to members within its service territory if the member remains in a rural area.<sup>124</sup>

***Gives effect to the broad public policy goals of the MGA the intention of municipalities***

105. As has been stated in previous decisions<sup>125</sup>, the public interest strongly favours giving effect to relevant legislation. In this proceeding, the Commission is asked to consider the alteration of REA service areas to accord with the corporate boundaries of those municipalities that have entered into MFAs granting FortisAlberta the exclusive right to provide electric distribution service within the municipality's corporate limits. The *MGA* is therefore a significant piece of the relevant legislative framework.

106. The *MGA* is a broadly-worded enabling statute that empowers municipalities in the province to legislate in respect of generally described powers and purposes. Section 3 of the *MGA* provides that the purposes of a municipality include: (i) “to provide good government”; (ii) “to provide services, facilities or other things that, in the opinion of council, are necessary or desirable for all or a part of the municipality”; and (iii) “to develop and maintain safe and viable communities.”<sup>126</sup> Section 7 of the *MGA* sets out municipalities' general jurisdiction to pass bylaws. Section 7 provides that a municipal council may pass bylaws “for municipal purposes” respecting a variety of matters. These matters include “services provided by or on behalf of the

<sup>122</sup> *Rural Utilities Act*, s 3(1)(a) provides: 3(1) Five or more persons who desire to be associated together in a co-operative association with the principal object of supplying any one or more of the following:

(a) electricity;...to its members primarily in a rural area may apply to be incorporated under this Act.

<sup>123</sup> Exhibit 22164-X0205, EQUUS Responses to AUC IRs ID 22164, July 24, 2017, EQUUS-AUC-2017JULY10-004, PDF pages 6-7.

<sup>124</sup> See e.g., Exhibit 22164-X0211, AFREA IR response to AUC.

<sup>125</sup> Decision 2012-181: PDF pages 26-28; Decision 2009-62: paragraph 53; Decision 2009-063: paragraph 55.

<sup>126</sup> *MGA*, s 3(a), 3(b), 3(c).

municipality” and “public utilities.”<sup>127</sup> Section 8 provides that such bylaws may “regulate or prohibit.”<sup>128</sup> Section 9 of the *MGA* provides a guide to interpreting municipalities’ power to pass bylaws as described in the preceding sections, and states:

- 9 The power to pass bylaws under this Division is stated in general terms to
  - (a) give broad authority to councils and to respect their right to govern municipalities in whatever way the councils consider appropriate, within the jurisdiction given to them under this or any other enactment, and
  - (b) enhance the ability of councils to respond to present and future issues in their municipalities.

107. The broad nature of the authority conferred on municipalities and the intention of the legislature in doing so was recently reviewed by the Court of Appeal in *Kozak*:

[23] Since 1994, the *MGA* has used broad language to confer authority to make bylaws over generally defined subject matters, for general municipal purposes: see ss 3, 7 and 8. Section 9 of the *MGA* explicitly recognizes that expressing the power to pass bylaws in general terms was not an accident; it was done consciously to give municipalities broad powers to govern “in whatever way the councils consider appropriate, within the jurisdiction given to them.”

[24] Adopting this approach to municipal governance, Alberta has subscribed to the modern method of drafting municipal legislation whereby municipalities have broad authority to legislate in respect of generally described powers, as recognized by the Supreme Court of Canada in *United Taxi* at paras 6-7:

6. The evolution of the modern municipality has produced a shift in the proper approach to the interpretation of statutes empowering municipalities. This notable shift in the nature of municipalities was acknowledged by McLachlin J. (as she then was) in *Shell Canada Products Ltd. v. Vancouver (City)*, 1994 CanLII 115 (SCC), [1994] 1 S.C.R. 231, at pp. 244-45. The “benevolent” and “strict” construction dichotomy has been set aside, and a broad and purposive approach to the interpretation of municipal powers has been embraced: *Nanaimo*, supra, at para. 18. This interpretive approach has evolved concomitantly with the modern method of drafting municipal legislation. Several provinces have moved away from the practice of granting municipalities specific powers in particular subject areas, choosing instead to confer them broad authority over generally defined matters: *The Municipal Act*, S.M. 1996, c. 58, C.C.S.M. c. M225; *Municipal Government Act*, S.N.S. 1998, c. 18; *Municipal Act*, R.S.Y. 2002, c. 154; *Municipal Act*, 2001, S.O. 2001, c. 25; *The Cities Act*, S.S. 2002, c. C-11.1. **This shift in legislative drafting reflects the true nature of modern municipalities which require greater flexibility in fulfilling their statutory purposes: *Shell Canada*, at pp. 238 and 245.**

<sup>127</sup> *MGA*, s 7(f), 7(g).

<sup>128</sup> *MGA*, s 8(a).

7. Alberta's *Municipal Government Act* follows the modern method of drafting municipal legislation. **The legislature's intention to enhance the powers of its municipalities by drafting the bylaw passing provisions of the Act in broad and general terms is expressly stated in s. 9.** Accordingly, to determine whether a municipality is authorized to exercise a certain power, such as limiting the issuance of taxi plate licences, the provisions of the Act must be construed in a broad and purposive manner.<sup>129</sup> [emphasis added]

108. In that same decision, the Court of Appeal went on to discuss the broad public policy goals of the *MGA* and the implication of those goals for the proper interpretation of the *MGA*:

[71] The public policy goals of the *MGA* support a broad and purposive interpretation of the *MGA*. The *MGA* contains a complex web of rules for orderly governance by democratically elected municipal councils in the interest of their citizens. The purposes of a municipality are as set out in s 3 of the *MGA*: to provide good government; to provide services, facilities and other things that, in the opinion of council, are necessary or desirable for the municipality; and ultimately, to develop and maintain safe and viable communities. As noted by McLachlin CJ in *Catalyst Paper Corp v North Cowichan (District)*, 2012 SCC 2 (CanLII) at para 19, 2012 1 SCR 5, municipal bylaws “involve an array of social, economic, political and other non-legal considerations.”

[72] It would be inimical to viable community infrastructure such as sewage systems if individual homeowners could opt out and follow what they view as their own best interests. Public policy considerations support the broad interpretation of powers granted to the municipalities under ss 8 and 9 of the *MGA*.<sup>130</sup>

109. As evident from the provisions described above and the commentary of the Court of Appeal, the *MGA* creates a scheme wherein democratically elected bodies have been granted significant authority to make decisions regarding a wide variety of activities within the municipalities. Although these activities explicitly include “public utilities”, as defined under the *MGA*, and “services provided by or on behalf of the municipality”, the legislation clearly intends to provide a very broad and general grant of authority for governance purposes.

110. In this proceeding, each of the affected municipalities has entered into an MFA with FortisAlberta. The language set out in Clause 4 of the 2012 MFA template, on its face, indicates an intention to grant an exclusive right to provide electric distribution service within the municipality. The MFAs in this proceeding also contain language indicating that the signatory municipality must support efforts to transfer REA facilities within the municipality to FortisAlberta. The Commission is therefore satisfied that by entering into the MFAs, each of the affected municipalities has expressed its intent to grant FortisAlberta the exclusive right to provide electric distribution service to the ratepayers of the subject municipality (including all annexed areas). The Commission further accepts that in entering into the MFA and passing a bylaw authorizing the MFA, each of the affected municipalities, through its democratically elected council, has already determined and acted upon what it considers to be in the best interest of its citizens.

<sup>129</sup> *Kozak*, paragraphs 23-24.

<sup>130</sup> *Kozak*, paragraphs 71-72.

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111. The Commission considers that it is in the public interest to ensure that the intention of democratically elected bodies, which have been granted broad statutory authority to act in their citizens' interest, is upheld to the extent possible within the applicable statutory framework. To give effect to the intention of the legislation as well as that of the affected municipalities, the Commission is therefore satisfied that the applied-for alteration of service area boundaries is in the public interest. As a corollary, it would be contrary to the public interest to deny the municipalities the authority granted under the *MGA* and to disregard their express intentions.

112. In making the above finding, the Commission has considered, but is not persuaded by the countervailing arguments advanced by EQUUS and AFREA as to why application of the public interest test should result in a denial of the application. The Commission is satisfied that on balance, the public interest favours alteration of the service area boundaries as requested and that the potential adverse effects of doing so can be minimized or mitigated to an acceptable degree through the remedial orders contemplated by the legislation as well as the transitional provisions detailed in Section 5.3. These findings and the reasons for them are detailed below.

*Arguments to the contrary are not persuasive*

113. EQUUS argued that if the Commission were to accept the proposition that “where an MFA exists... customer self-supply through REAs is prohibited”, this would result in the REA framework “being left to the whim of municipalities.”<sup>131</sup> However, the Commission considers this is consistent with the broad public policy goals and intention of the legislation, as articulated in *Kozak*, to permit the “orderly governance by democratically elected municipal councils in the interests of their citizens.”<sup>132</sup>

114. EQUUS asserted that there is no benefit to the public at large from the granting of the requested orders; however, the orders would have a “permanent, material and substantial” adverse effect on EQUUS and its members<sup>133</sup> as well as a lasting adverse impact on municipalities.<sup>134</sup> On this basis, EQUUS asserted that FortisAlberta’s application should be denied. AFREA similarly emphasized the potential adverse effect of the application on its REA members as a reason why the application is not in the public interest and should be denied.

115. The Commission finds no merit in EQUUS’ assertion that the public at large derives no benefit from the applied-for alteration of the service area boundaries. That benefit, namely giving effect to the relevant statutory framework and intent of the legislature was described at length above. EQUUS has also failed to persuade the Commission that the application should be denied as a consequence of its adverse effects. The alleged “permanent, material and substantial adverse effect” on EQUUS and its members has not been established in this proceeding. Moreover, as noted by FortisAlberta, REAs will be compensated for the transfer of any facilities and individual REA members may be entitled to a refund following the withdrawal from membership (which is anticipated to occur should these members be required to take service from FortisAlberta).

<sup>131</sup> Exhibit 22164-X0282, EQUUS Reply Argument, PDF page 14, paragraph 45.

<sup>132</sup> *Kozak*, at paragraph 71.

<sup>133</sup> Exhibit 22164-X0192, EQUUS Evidence, Q&A 43 and 44; Exhibit 22164-X0276, EQUUS Argument, PDF page 63.

<sup>134</sup> Exhibit 22164-X0192, EQUUS Evidence, Q&A 33 and 34; Exhibit 22164-X0276, EQUUS Argument, PDF page 40.

116. The Commission likewise considers that many of the public interest considerations identified by AFREA as supporting a denial of the service area amendments can be mitigated or minimized through the transitional provisions approved by the Commission in Section 5.3 below. For example, AFREA identified that it was not in the public interest to divest AFREA and REA members of their interests in the co-operative, nor is it in the public interest to alter the service area in a manner that ought to be properly brought before this Commission by municipalities, not by FortisAlberta.<sup>135</sup> As discussed in the section that follows, the Commission will not require the immediate transfer of existing REA facilities or customers to FortisAlberta, unless the municipality whose boundaries overlap with these customers and facilities passes a bylaw compelling these customers to connect to and take electric distribution service from FortisAlberta.

117. For all the above reasons, the Commission considers that any potential adverse effect on the affected REAs and their members resulting from alteration of the service area boundaries does not outweigh the associated public interest benefit and can be mitigated to an acceptable degree by the remedial orders contemplated by the legislation as well as the transitional provisions that the Commission has directed below.

118. As to the alleged lasting adverse impact on municipalities, the Commission finds that municipalities were provided with notice and an opportunity to participate in this proceeding. If any municipality considered that it would be adversely impacted, it was open to that municipality to participate in the process and provide evidence to this effect. In the absence of this or any evidence that EQUUS has been authorized by one or more municipalities to speak on their behalves, the Commission is not prepared to accept EQUUS' submission on this point.

119. Another argument advanced by both EQUUS and AFREA relates to the MFAs. EQUUS argued that the public interest findings in relation to the approval of the MFAs are not relevant and are prejudicial to REAs because REAs, including EQUUS, were not provided specific notice of Proceeding 1946 concerning the Hinton template MFA.<sup>136</sup> AFREA likewise argued that approving FortisAlberta's application is not in the public interest because it, among other things, violates a positive burden that FortisAlberta had under Section 3 of the *EUA* when they originally brought their MFA applications to the Commission.<sup>137</sup>

120. The Commission is not persuaded that the REAs lacked notice of Proceeding 1946. The evidence before the Commission in this proceeding indicates that in Proceeding 1946, FortisAlberta conducted consultation with the Alberta Urban Municipalities Association and AFREA regarding the proposed MFA template in advance of filing its application. The Commission's notice of application in Proceeding 1946 was issued electronically, made available on the Commission's website, and published in the Hinton Parklander and Hinton Voice newspapers.<sup>138</sup> Additionally, notice was issued for each individual MFA filed with the Commission for approval. The Commission further notes that AFREA was involved in and monitored Proceeding 1946.<sup>139</sup> AFREA confirmed in evidence that it was engaged in stakeholder

<sup>135</sup> As summarized in Exhibit 22164-X0277, AFREA Argument, PDF page 35, paragraph 123.

<sup>136</sup> Exhibit 22164-X0276, EQUUS Argument, PDF page 8.

<sup>137</sup> Exhibit 22164-X0277, AFREA Argument, PDF page 16, paragraph 46.

<sup>138</sup> Proceeding 1946, Exhibits 0011.01.AUC-1946, Notice of Application, June 19, 2012 and Exhibit 0012.01.AUC-1946, AUC Letter - Issuance of notice of application, June 25, 2012.

<sup>139</sup> Exhibit 22164-X0196, AFREA Evidence Revisions, July 4, 2017, PDF page 9.

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conversations to determine that the MFA template had not fundamentally changed from the previous version, and that AFREA did not participate in any other way in Proceeding 1946. There is no evidence before the Commission that either EQUUS or AFREA did not receive notice of any relevant proceedings; rather, the evidence before the Commission indicates that notice was received and the parties chose the level at which they participated.

121. On the basis of all of the above, the Commission concludes that EQUUS and AFREA had an opportunity to identify and respond to potential impacts on their rights in Proceeding 1946. That they chose not to do so at the time does not render the notice inadequate.

122. The Commission is also not persuaded that the arguments advanced with respect to notice of Proceeding 1946 serve to undermine or somehow vitiate the Commission's public interest determination in that proceeding (or in other proceedings in which an MFA was before the Commission for approval<sup>140</sup>). The Commission has approved MFAs on the basis that the franchises are necessary and proper for the public convenience and properly serve the public interest pursuant to Section 139 of the *EUA*. It is reasonable that the same considerations supporting that determination also support harmonizing service area approvals to give effect to the franchises granted by the MFAs. This is not conflating the Commission's public interest determination in one context with another, but rather relying on the Commission's earlier determinations in a related proceeding as one of the grounds supporting the Commission's determination in this proceeding.

123. AFREA's remaining arguments as to why approving FortisAlberta's application is not in the public interest were as follows:

- i. It embarrasses the legislative process;
- ii. It flies in the face of Decision 2012-181;
- iii. Section 3 of the *EUA* prevents extending the MFA approvals beyond the scope of their original intention; and
- iv. It would allow for a breach of an implied term in a contract that governs the relationship in overlapping service areas.<sup>141</sup>

124. AFREA also submitted that it is in the public interest to maintain business efficacy, legislated objectives, and regulatory certainty, all of which can only be accomplished by dismissing FortisAlberta's application.<sup>142</sup>

125. The Commission is not persuaded by any of the above arguments.

126. AFREA did not support its argument that approving the application "embarrasses the legislative process", except to the extent that it submits the WOAs, which are mandated by a regulation, are being breached. As discussed above, AFREA has not satisfied the test to establish

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<sup>140</sup> Each MFA has been separately approved by the Commission on an application filed by FortisAlberta, the municipality (or often both). Notice of an application for approval of an MFA is a requirement for having the MFA approved by the Commission.

<sup>141</sup> Exhibit 22164-X0277, AFREA Argument, PDF page 16, paragraph 48.

<sup>142</sup> Exhibit 22164-X0277, AFREA Argument, PDF page 20, paragraph 65.



that grandfathering facilities is an implied term of the WOAs. Accordingly, to the extent that AFREA submits that the breach of the alleged implied term leads to a conclusion that the legislative process is embarrassed or thwarted, this argument must also fail.

127. The argument based on Decision 2012-181 is also not persuasive as the facts and issues in the proceeding that gave rise to that decision are not comparable to those before the Commission on this application. The statements made by the Commission, and the finding that REAs are a form of “self supply”, in Decision 2012-181 were specifically made in the context of overlapping service area approvals pursuant to the *HEEA* and the submission of CAREA (as it was then<sup>143</sup>) that it should be declared the monopoly service provided within its approved geographic service area.<sup>144</sup> In that decision, the Commission did not consider the impact of a municipality’s right to grant an exclusive franchise area for the provision of utility service within its boundaries. The question before the Commission in Decision 2012-181 was whether EQUUS’ predecessor and FortisAlberta could have overlapping service areas approved under the *HEEA*. The question in this proceeding is whether the Commission should amend service area approvals to align with exclusive franchises granted by municipalities. In the absence of the municipal franchises, the status quo of the overlapping service areas acknowledged in Decision 2012-181 would remain (in fact, the Commission expects that the overlapping service areas still remain in other areas not subject to an exclusive municipal franchise). No inconsistency with Decision 2012-181 exists and accordingly, this issue does not play into the Commission’s public interest analysis in this case.

128. AFREA argued that Section 3 of the *EUA*, “prevents extending the MFA approvals beyond the scope of their original intention: the intention, from AFREA’s view, was to apply to existing urban environments and maintain the historical practice of asset transfer in annexed lands upon land use change or development”<sup>145</sup> The Commission is not persuaded by AFREA’s interpretation of Section 3 of the *EUA* and finds AFREA’s view of the intention of the “MFA approvals” inconsistent with both a plain reading of the their terms and the Commission’s decisions approving them. It is not the application of the *EUA* in this case that requires alteration of the boundaries of the service area of an electric distribution system, but rather the Commission’s overall assessment of what is in the public interest under Section 29 of the *HEEA*.

129. The Commission has already addressed and dismissed AFREA’s argument on the implied term of the WOAs above. Accordingly, the Commission did not factor, “breach of an implied term in a contract” as being one of the factors in its public interest analysis.

130. The Commission agrees with AFREA that it is in the public interest to maintain business efficacy, legislated objectives, and regulatory certainty, however, it does not find that dismissing FortisAlberta’s application accomplishes this. To the contrary, for the reasons detailed above, the Commission concludes that:

- On balance, having regard to the social and economic effects of the application, the relevant legislative framework and the intention of the legislature in establishing that

<sup>143</sup> Decision 2012-181: paragraph 64.

<sup>144</sup> Decision 2012-181: paragraph 6.

<sup>145</sup> Exhibit 22164-X0277, AFREA Argument, PDF page 18, paragraph 58.

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legislative framework, the public interest (including the objectives identified by AFREA) is best served by approving FortisAlberta's application.

- Any consequential adverse effects can be mitigated to an acceptable degree through the remedial orders contemplated by the legislation and the transitional provisions detailed below.

### 5.3 The requested relief is subject to transitional provisions

131. While satisfied that it is in the public interest to align the REA service area approvals with the applicable MFAs and the associated municipal boundaries, as they have expanded as a result of annexations, it is not clear to the Commission that the intention of the affected municipalities is to effect an immediate transfer of all affected facilities and REA customers to FortisAlberta and the Commission is not otherwise persuaded that it is necessary or in the public interest to do so.

132. No municipality actively intervened in this proceeding, and there is no evidence before the Commission that the affected municipalities require or even support the immediate transfer of existing facilities and customers. Additionally, there is no evidence before the Commission that any of the affected municipalities have sought to enforce FortisAlberta's exclusivity through the passing of a bylaw under Section 46 or any other provision of the *MGA*.

133. Furthermore, while FortisAlberta indicated it has observed increasing conflicts between it and REAs,<sup>146</sup> there is also evidence that FortisAlberta maintains an ongoing business relationship with several of the affected REAs, such as the AFREA members,<sup>147</sup> and that, normally, there is reasonable cooperation with these same affected REAs and FortisAlberta.<sup>148</sup> FortisAlberta also confirmed that it continues to communicate with AFREA and certain REAs relatively easily, and promotes open communication on both sides.<sup>149</sup> FortisAlberta also acknowledged evidence that some REA assets have remained with REAs for a period of time following annexation.<sup>150</sup> There is therefore no persuasive evidence of imminent harm to FortisAlberta if the affected facilities and REA customers to FortisAlberta are not immediately transferred.

134. Likewise, the evidence does not support a conclusion that existing REA members who now fall within the boundaries of the affected municipalities are harmed by their continued membership in an REA and their choice to take electric distribution service from an REA. Rather, these customers chose to become a member in an REA and to take electric distribution service from that REA at a point in time when that choice was available to them (i.e., before their lands were annexed to a municipality that has an MFA with FortisAlberta). In fact, it is open to these REA members to elect to become customers of FortisAlberta at any time – the question before the Commission is whether they should be compelled to do so at this time.

<sup>146</sup> Exhibit 22164-X0163, FortisAlberta IR responses to AUC, PDF page 4.

<sup>147</sup> Transcript, Volume 1, page 36, lines 1 – 9.

<sup>148</sup> Transcript, Volume 1, page 42, lines 9-11.

<sup>149</sup> Transcript, Volume 1, page 57, starting at line 13: "Q....would it be a fair statement to say that Fortis continues to communicate with the AFREA and the named REAs relatively easily? Would that be a fair statement? A. MR. DETTLING: Yes. We definitely promote open communication on both sides., And I - - I can speak personally over other matters that we've had with REAs, and it's very comfortable to reach out to each party."

<sup>150</sup> Exhibit 22164-X0275, FortisAlberta Argument, PDF page 36, paragraph 100.

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135. Based on a consideration of all of the evidence before it, the Commission is not satisfied that it is necessary or in the public interest to effect an immediate transfer of the subject facilities and customers.

136. In circumstances where an REA service area overlaps with the boundaries of a municipality that has entered into an MFA with FortisAlberta, and there remain existing REA facilities and customers in the overlapping area, the Commission will therefore not require the immediate transfer of these facilities and customers. Rather, the existing REA facilities and customers in these overlapping areas will be required to transfer to FortisAlberta in the event that the municipality passes a bylaw requiring these persons to connect to, and take electric distribution service from, FortisAlberta. In other words, if a municipality affected by this decision wishes to effect a timely transfer of any existing REA members, it can pass a bylaw requiring this transfer, or setting out some other timing for when all persons in annexed areas will be required to take service from FortisAlberta.

137. Based on the Court of Appeal's decision in *Kozak*, a municipality has the authority to, "compel owners to connect to a public utility..."<sup>151</sup> While that decision was made in the context of a municipality compelling residents to connect to its own municipal public utility, the same reasoning may apply where a municipality wishes to compel residents to connect to a non-municipal public utility. Accordingly, it remains in the discretion of the municipality to enact a bylaw to require existing REA members to connect to FortisAlberta when the municipality determines is best. As part of any process to enact a bylaw, the municipality may seek to involve those existing REA members located within its boundaries.

138. Where no bylaw is passed requiring REA members to connect to FortisAlberta, existing REA facilities and customers will eventually transition to FortisAlberta as a result of the altered service areas. This is because an affected REA's service area will no longer include areas falling within the boundaries of an affected municipality. Consequently, any new customer or new service in the annexed (formerly overlapping) areas must make arrangements for the purchase of electric distribution service from FortisAlberta.

139. For greater clarity, it is the Commission's expectation in the event that no bylaw is passed by an affected municipality requiring existing REA members in its boundaries to connect to FortisAlberta, each of those existing REA members will cease purchasing electric distribution service from the REA at the earliest of:

- i. the existing REA member electing to transfer to FortisAlberta;
- ii. a change in customer (for example, there is a change in ownership at the site and the existing customer is no longer the same REA member who originally required electric distribution service at the site);

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<sup>151</sup> *Kozak*, at paragraph 41.

- iii. the affected REA requesting the transfer of facilities and REA customer to FortisAlberta;<sup>152</sup> or
- iv. the affected REA refusing to continue to serve the existing REA member.

140. The Commission approves the requested alteration to the affected REA service area boundaries to prevent further incursion into the areas governed by the applicable MFAs.

141. The Commission also approves the affected REAs' ability to continue to provide electric distribution service to the existing REA members with existing facilities in the annexed (formerly overlapping) areas until one of the events contemplated above necessitating the transfer occurs. This latter relief is authorized by Section 26 of the *HEEA*, which provides:

**Operation in another service area**

26 Notwithstanding section 25, the Commission may approve the construction or operation of an electric distribution system in the service area of another electric distribution system if the Commission is satisfied that it is for the purpose of providing service to a consumer in that service area who is not being provided service by the distribution system approved to distribute electric energy in that service area.

142. This relief is also consistent with the broad discretion afforded to the Commission including that conferred by Section 29 of the *HEEA*.

143. As a corollary to the relief described above, the affected REAs shall not provide electric distribution service to new customers within the municipal boundaries governed by the applicable MFAs. In circumstances where a change has been requested or has occurred, as contemplated in the paragraphs above, the REA must communicate this change to FortisAlberta and shall refer the customer to FortisAlberta for future electric distribution service in accordance with the terms of the applicable MFA.

144. Each affected REA shall make its existing members whose services fall within municipal boundaries that are subject to an MFA with FortisAlberta aware of this Commission decision. The REAs shall ensure that each of these members is aware that, at some point in time, the service will be transferred to FortisAlberta. The affected REAs are directed to cooperate and provide any necessary information to FortisAlberta in order to ensure that the affected customers and facilities are transitioned to FortisAlberta in accordance with this decision.

145. The foregoing applies only with respect to the provision of electric distribution service. Nothing in this decision is intended to prevent an REA from providing a function or service that retailers are permitted to provide under the *EUA* or the regulations under that legislation.

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<sup>152</sup> Battle River noted that they have made requests to FortisAlberta for transfer of assets within annexed lands and did not receive responses, and also identified sites that FortisAlberta has not yet requested: Exhibit 22164-X0196, AFREA Evidence Revisions, Q&A 12 and Transcript, Volume 1, pages 53-54. FortisAlberta provided details on the identified assets as a result of an undertaking during the oral proceeding: Exhibit 22164-X0266, 2018-01-30 FortisAlberta Response to Undertaking #1, January 31, 2018.

#### 5.4 AUC Rule 021 considerations

146. FortisAlberta requested that, if the Commission grants its request, the Commission also confirm that the requirement in Section 2.18 of Rule 021 applies, as FortisAlberta will take on the role of a meter data manager and wire service provider. Section 2.18 of Rule 021 requires that parties cooperate to create a transition plan at least 60 calendar days prior to the effective date of a change such as this. In its argument, FortisAlberta reiterated the need for the Commission to direct the affected REAs to work with FortisAlberta to submit the Rule 021 transition plan to the Commission and the Independent System Operator within the specified timelines.<sup>153</sup> FortisAlberta acknowledged that the affected REAs and FortisAlberta have worked in the past to transfer customers and assets under the applicable WOA or integrated operating agreement.<sup>154</sup>

147. EQUUS submitted that FortisAlberta's request for a transition plan under Rule 021 should be rejected as it is not necessary. The Commission has powers to enforce compliance with its rules, and Section 32 of the *HEEA* includes provisions on the transfer of service areas and of assets.<sup>155</sup> Further, EQUUS submitted that:

Finally, transfers of consumers as between REAs and Fortis have been occurring for a long time, and parties are aware of the necessary steps that must be taken to effect those transfers. While the scale of the transfers would be unprecedented if the requested relief is granted, the steps to be taken are well known and can be easily conducted.<sup>156</sup>

148. In response to FortisAlberta's request, AFREA submitted in its reply argument, that the REA representatives agree to support an Rule 021 transition plan for this proceeding only.<sup>157</sup> During the oral proceeding, the importance of communication for the benefit of the REAs' members was emphasized. The representative of North Parkland stated the following:

So from an administrative standpoint, it's really important to engage the members and ensure they have the education and communication required to understand what is taking place and why. People don't have boundaries; municipalities and service areas have boundaries. So these people who live, work, and play in the municipality, even though they're rural, they don't get that. And so that communication is really super critical.<sup>158</sup>

149. The Commission agrees with EQUUS that the practice of transferring customers and assets is well established. The Commission has also approved FortisAlberta's application with transitional provisions for transferring assets and REA customers. Because the transfers are not anticipated to happen all at once, but gradually over time, the Commission finds that a transition plan for the purpose of Rule 021 is not required. Nonetheless, the Commission expects parties to cooperate for the purpose of informing REA members of the changes and transferring customers and assets as required.

<sup>153</sup> Exhibit 22164-X0275, FortisAlberta Argument, PDF page 45, paragraph 129-130.

<sup>154</sup> Exhibit 22164-X0275, FortisAlberta Argument, PDF page 46, paragraph 136.

<sup>155</sup> Exhibit 22164-X0282, EQUUS Reply Argument, PDF page 29.

<sup>156</sup> Exhibit 22164-X0282, EQUUS Reply Argument, PDF page 30, paragraph 114.

<sup>157</sup> Exhibit 22164-X0281, AFREA Reply Argument, April 5, 2018, PDF pages 4 and 5.

<sup>158</sup> Transcript, Volume 2, page 237.

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## 5.5 Form of order

150. FortisAlberta requested 83 distinct orders, each of which addressed a specific municipality and the affected REA's service area, with a cross-reference to maps provided in the application outlining the up-to-date corporate boundaries of the municipality.<sup>159</sup> The requested orders contemplated that FortisAlberta's exclusive franchise to serve the residents of the municipalities, "is subject to vary from time to time in accordance with applicable legislation, subsequently issued Orders-In-Council, Commission orders, or any combination thereof."<sup>160</sup> Similarly, the orders stated that the affected REA service area was revised in accordance with the corporate limits of the municipality, "as established from time to time in accordance with applicable legislation, subsequently issued Orders-In-Council, Commission orders, or any combination thereof."<sup>161</sup>

151. FortisAlberta has not satisfied the Commission that it is within the Commission's jurisdiction to grant orders that may effect further changes to service area approvals, based on future, uncertain or unknown events or that such orders, even if within the Commission's jurisdiction, are in the public interest in this case.

152. The Commission's order, as reflected in Section 6 below, shall therefore alter the service areas of the affected REAs to align with the corporate boundaries of the affected municipalities as identified by FortisAlberta on the record of this proceeding.

## 6 Decision

153. For the reasons provided above, the Commission grants the application of FortisAlberta, in part, and orders as follows:

- (a) FortisAlberta's exclusive franchise areas for the provision of electric distribution service to residents of the municipalities identified in Appendix A to this decision are confirmed to correspond to the terms of the applicable municipal franchise agreements and the corporate limits of the affected municipalities.
- (b) The service area granted to each of the affected REAs identified in Appendix A, shall be altered to align with the corporate limits of the municipalities as those limits were identified by FortisAlberta on the record of this proceeding.
- (c) Any existing REA member, who is currently taking electric distribution service from one of the affected REAs within the corporate limits of a municipality identified in Appendix A to this decision, may continue to be served by the REA until such time as the municipality passes a bylaw requiring the REA members in the municipality to take electric distribution service from FortisAlberta. If a municipality does not pass any such further bylaw, the affected REA has the Commission's approval to continue to serve an existing REA member within the municipality's boundaries until the earliest of: (i) the existing REA member electing to transfer to FortisAlberta, (ii) a change in the member or service (such as a change in ownership of the applicable site), (iii) the affected REA

<sup>159</sup> See e.g. requested form of order for the Village of Alberta Beach, reproduced in Section 2.1 above.

<sup>160</sup> Exhibit 22164-X0013, Application, starting at PDF page 19.

<sup>161</sup> Exhibit 22164-X0013, Application, starting at PDF page 19.

requesting the transfer of the member and associated facilities to FortisAlberta, and (iv) the affected REA refusing to continue to serve the existing member.

- (d) Notwithstanding that any existing REA members would no longer be located in the affected REAs' service areas as a result of this decision, the Commission approves the continued operation of the affected REAs' electric distribution systems in the service area of FortisAlberta for the purpose of providing service to any such existing REA members, until such time as any of the circumstances identified in (c) above are met.

154. The Commission issues, concurrently with the issuance of this decision, the amended service area approvals, as identified in Appendix B of this decision for each of the affected REAs.

Dated on July 16, 2018.

**Alberta Utilities Commission**

*(original signed by)*

Neil Jamieson  
Panel Chair

*(original signed by)*

Carolyn Hutniak  
Commission Member

*(original signed by)*

Moin A. Yahya  
Acting Commission Member<sup>162</sup>

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<sup>162</sup> Dr. Yahya was nominated by the Lieutenant Governor in Council as a person who could be selected by the Chair of the Commission as an acting member of the Alberta Utilities Commission in Order in Council 306/2012 (the O.C.) dated October 3, 2012. The O.C. provides that the term which Dr. Yahya may be selected as an acting member of the Commission expires on October 2, 2017. The Chair of the Commission, as he was then, selected Dr. Yahya as an acting member for the purposes of Proceeding 22164 prior to October 2, 2017. Section 4(2) of the Alberta Utilities Commission Act makes it clear that the Chair of the Commission can name a person as an acting member for "any period of time." While the term during which Dr. Yahya could be selected as an acting member for new proceedings expired on October 2, 2017, his selection as an acting member on Proceeding 22164 continues until Proceeding 22164 is complete.

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## Appendix A – List of affected municipalities

The following is a list of affected municipalities based on FortisAlberta's application  
Exhibit 22164-X0011 - Appendix B Mailing List of Affected Municipalities for Notices of Application.

Municipality	Type of municipality	REA currently serving in the municipal area	Approval Number/ Order
Alberta Beach	Village	EQUS REA Ltd.	U2013-048
Alix	Village	Battle River Power Coop	U2003-136 and U2006-311
Amisk	Village	Battle River Power Coop	U2003-136 and U2006-311
Argentia Beach	Summer Village	West Wetaskiwin REA Ltd.	HE 7784K
Arrowwood	Village	EQUS REA Ltd.	U2013-048
Barrhead	Town	Wild Rose REA Ltd.	U2002-068
Bashaw	Town	Battle River Power Coop	U2003-136 and U2006-311
Bawlf	Village	Battle River Power Coop	U2003-136 and U2006-311
Beaumont	Town	Battle River Power Coop	U2003-136 and U2006-311
Beiseker	Village	EQUS REA Ltd.	U2013-048
Bentley	Town	EQUS REA Ltd.	U2013-048
Betula Beach	Summer Village	Tomahawk REA Ltd.	HE 7765F
Bittern Lake	Village	Battle River Power Coop	U2003-136 and U2006-311
Blackfalds	Town	EQUS REA Ltd.	U2013-048
Bon Accord	Town	North Parkland Power REA Ltd.	U2000-339
Bow Island	Town	EQUS REA Ltd.	U2013-048
Bowden	Town	EQUS REA Ltd.	U2013-048
Bruderheim	Town	Battle River Power Coop	U2003-136 and U2006-311
Calmar	Town	Battle River Power Coop	U2003-136 and U2006-311
Camrose	City	Battle River Power Coop	U2003-136 and U2006-311
Camrose	City	Armena REA Ltd.	HE7844
Caroline	Village	Rocky REA Ltd.	U2005-418
Chipman	Village	Battle River Power Coop	U2003-136
Clyde	Village	Wild Rose REA Ltd.	U2002-068
Crystal Springs	Summer Village	West Wetaskiwin REA Ltd.	HE 7784K
Czar	Village	Battle River Power Coop	U2003-136 and U2006-311
Daysland	Town	Battle River Power Coop	U2003-136 and U2006-311
Devon	Town	Battle River Power Coop	U2003-136 and U2006-311
Drayton Valley	Town	Drayton Valley REA Ltd.	HE 7755F
Edberg	Village	Battle River Power Coop	U2003-136 and U2006-311
Ferintosh	Village	Battle River Power Coop	U2003-136 and U2006-311
Fort Saskatchewan	City	Battle River Power Coop	U2003-136 and U2006-311
Gibbons	Town	North Parkland Power REA Ltd.	U2000-339
Grandview	Summer Village	West Wetaskiwin REA Ltd.	HE 7784K
Granum	Town	EQUS REA Ltd.	U2013-048
Gull Lake	Summer Village	EQUS REA Ltd.	U2013-048
Hardisty	Town	Battle River Power Coop	U2003-136 and U2006-311
Hay Lakes	Village	Armena REA Ltd.	HE 7844C
Hughenden	Village	Battle River Power Coop	U2003-136 and U2006-311
Innisfail	Town	EQUS REA Ltd.	U2013-048
Irricana	Town	EQUS REA Ltd.	U2013-048
Jarvis Bay	Summer Village	EQUS REA Ltd.	U2013-048
Lacombe	City	EQUS REA Ltd.	U2013-048
Lakeview	Summer Village	EQUS REA Ltd.	U2013-048



Municipality	Type of municipality	REA currently serving in the municipal area	Approval Number/ Order
Lamont	Town	Battle River Power Coop	U2003-136 and U2006-311
Leduc	City	Battle River Power Coop	U2003-136 and U2006-311
Lougheed	Village	Battle River Power Coop	U2003-136 and U2006-311
Mayerthorpe	Town	Mayerthorpe & District REA Ltd.	HE 9508
Millet	Town	Battle River Power Coop	U2003-136 and U2006-311
Millet	Town	West Liberty REA Ltd.	HE 7783C
Morinville	Town	North Parkland Power REA Ltd.	U2000-339
Nakamun Park	Summer Village	EQUUS REA Ltd.	U2013-048
Nanton	Town	EQUUS REA Ltd.	U2013-048
Norris Beach	Summer Village	West Wetaskiwin REA Ltd.	HE 7784K
Onoway	Town	EQUUS REA Ltd.	U2013-048
Parkland Beach	Summer Village	EQUUS REA Ltd.	U2013-048
Penhold	Town	EQUUS REA Ltd.	U2013-048
Point Alison	Summer Village	EQUUS REA Ltd.	U2013-048
Poplar Bay	Summer Village	West Wetaskiwin REA Ltd.	HE 7784K
Redwater	Town	North Parkland Power REA Ltd.	U2000-339
Rimbey	Town	EQUUS REA Ltd.	U2013-048
Rocky Mountain House	Town	Rocky REA Ltd.	U2005-418
Ross Haven	Summer Village	EQUUS REA Ltd.	U2013-048
Seba Beach	Summer Village	EQUUS REA Ltd.	U2013-048
Seba Beach	Summer Village	Tomahawk REA Ltd.	HE 7765F
Sedgewick	Town	Battle River Power Coop	U2003-136 and U2006-311
Silver Sands	Summer Village	EQUUS REA Ltd.	U2013-048
South View	Summer Village	EQUUS REA Ltd.	U2013-048
Stony Plain	Town	Stony Plain REA Ltd.	HE 7763F
Sundre	Town	EQUUS REA Ltd.	U2013-048
Sunrise Beach	Summer Village	EQUUS REA Ltd.	U2013-048
Sunset Point	Summer Village	EQUUS REA Ltd.	U2013-048
Sylvan Lake	Town	EQUUS REA Ltd.	U2013-048
Taber	Town	EQUUS REA Ltd.	U2013-048
Val Quentin	Summer Village	EQUUS REA Ltd.	U2013-048
Vauxhall	Town	EQUUS REA Ltd.	U2013-048
Viking	Town	Battle River Power Coop	U2003-136 and U2006-311
Wabamun	Village	EQUUS REA Ltd.	U2013-048
Westlock	Town	Wild Rose REA Ltd.	U2002-068
Wetaskiwin	City	Battle River Power Coop	U2003-136 and U2006-311
Wetaskiwin	City	West Wetaskiwin REA Ltd.	HE 7784K
Whitcourt	Town	Mayerthorpe & District REA Ltd.	HE 9508
Yellowstone	Summer Village	EQUUS REA Ltd.	U2013-048

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**Appendix B – Service area approvals for the affected REAs**

REA	Previous Approval Number/ Order	Current Service Area Approval
Armena REA Ltd.	HE 7844C	Appendix 1 – Service Area Approval 22164-D02-2018
Battle River Cooperative REA Ltd.	U2003-136 and U2006-311	Appendix 2 – Service Area Approval 22164-D03-2018
Drayton Valley REA Ltd.	HE 7755F	Appendix 3 – Service Area Approval 22164-D04-2018
EQUUS REA Ltd.	U2013-048	Appendix 4 – Service Area Approval 22164-D05-2018
Mayerthorpe & District REA Ltd.	HE 9508	Appendix 5 – Service Area Approval 22164-D06-2018
North Parkland Power REA Ltd.	U2000-339	Appendix 6 – Service Area Approval 22164-D07-2018
Rocky REA Ltd.	U2005-418	Appendix 7 – Service Area Approval 22164-D08-2018
Stony Plain REA Ltd.	HE 7763F	Appendix 8 – Service Area Approval 22164-D09-2018
Tomahawk REA Ltd.	HE 7765F	Appendix 9 – Service Area Approval 22164-D10-2018
West Liberty REA Ltd.	HE 7783C	Appendix 10 – Service Area Approval 22164-D11-2018
West Wetaskiwin REA Ltd.	HE 7784K	Appendix 11 – Service Area Approval 22164-D12-2018
Wild Rose REA Ltd.	U2002-068	Appendix 12 – Service Area Approval 22164-D13-2018

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### Appendix C – Proceeding participants

Name of organization (abbreviation) Company name of counsel or representative
Alberta Federation of Rural Electrification Associations (AFREA) Alberta Counsel – Shauna L. Gibbons
Beaver County Cindy Cox
Bernie and Gail Goudreau
County Of Leduc Dave Desimone
EQUS Rural Electrification Association Ltd. (EQUS) McLennan Ross LLP – Douglas I. Evanchuk
FortisAlberta Inc. (FortisAlberta) Norton Rose Fulbright Canada LLP
Ian Stuart
Klaas and Christine Werkema
Marvin Wilson
Newton C. Henricks
Rick Walger
Tomahawk REA Limited McLennan Ross LLP – Douglas I. Evanchuk
Town Of Bon Accord
Wild Rose REA Ltd.

Alberta Utilities Commission

Commission panel

N. Jamieson, Panel Chair  
C. Hutniak, Commission Member  
M. Yahya, Acting Commission Member

Commission staff

K. Kellgren (Commission counsel)  
K. Macnab (Commission counsel)  
H. Gnez  
M. Baitoiu

**Appendix D – Oral hearing – registered appearances**

<b>Name of organization (abbreviation) Name of counsel or representative</b>	<b>Witnesses</b>
Alberta Federation of Rural Electrification Associations (AFREA) S. Gibbons	A. Nagel (AFREA) J. Reglin (Rocky REA Ltd.) K. Szelewicki (Battle River Power Coop) V. Zinyk (North Parkland Power REA Ltd.) J.A. Sjolín (West Wetaskiwin REA Ltd.)
EQUUS Rural Electrification Association Ltd. (EQUUS) D. Evanchuk	P. Bourne
FortisAlberta Inc. (FortisAlberta) B. Ho M. Peden	T. Dettling M. Stroh

## Appendix E – Abbreviations

Abbreviation	Name in full
AUC or the Commission	Alberta Utilities Commission
Rule 021	AUC Rule 021: <i>Settlement System Code Rules</i>
Battle River or Battle River Power Coop	Battle River Cooperative REA Ltd.
EQUS	EQUS REA Ltd.
<i>EUA</i>	<i>Electric Utilities Act</i>
FortisAlberta	FortisAlberta Inc.
<i>HEEA</i>	<i>Hydro and Electric Energy Act</i>
MFA	municipal franchise agreement
<i>MGA</i>	<i>Municipal Government Act</i>
North Parkland	North Parkland Power REA Ltd.
RCN-D	replacement cost new less depreciation
REA	rural electrification association
Rocky	Rocky REA Ltd.
Tomahawk	Tomahawk REA Ltd.
West Wetaskiwin	West Wetaskiwin REA Ltd.
Wild Rose	Wild Rose REA Ltd.
WOA	Wire Owner Agreement

## Debbie Giroux

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**From:** Wendy Wildman <cao@onoway.ca>  
**Sent:** May 22, 2019 11:31 AM  
**To:** 'Debbie Giroux'  
**Subject:** FW: 46 Bylaw Presentation  
**Attachments:** 46 Bylaw Presentation .pptx

Deb – this is to go with our other Fortis stuff on our next agenda.

**Wendy Wildman**  
CAO  
Town of Onoway  
Box 540  
Onoway, AB. T0E 1V0  
780-967-5338 Fax: 780-967-3226  
cao@onoway.ca

**NOTE EMAIL CONTACT INFORMATION HAS CHANGED TO: [cao@onoway.ca](mailto:cao@onoway.ca)**

**This email is intended only for the use of the party to which it is addressed and for the intended purpose. This email contains information that is privileged, confidential, and/or protected by law and is to be held in the strictest confidence. If you are not the intended recipient you are hereby notified that any dissemination, copying, or distribution of this email or its contents is strictly prohibited. If you have received this message in error, please notify us immediately by replying to the message and deleting it from your computer.**

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**From:** Smith, Nicole <nicole.smith@fortisalberta.com>  
**Sent:** May 22, 2019 9:51 AM  
**To:** Wendy Wildman <cao@onoway.ca>  
**Subject:** 46 Bylaw Presentation

Hi Wendy,

As discussed attached is the presentation with some useful information for the bylaw request.

Thanks again!

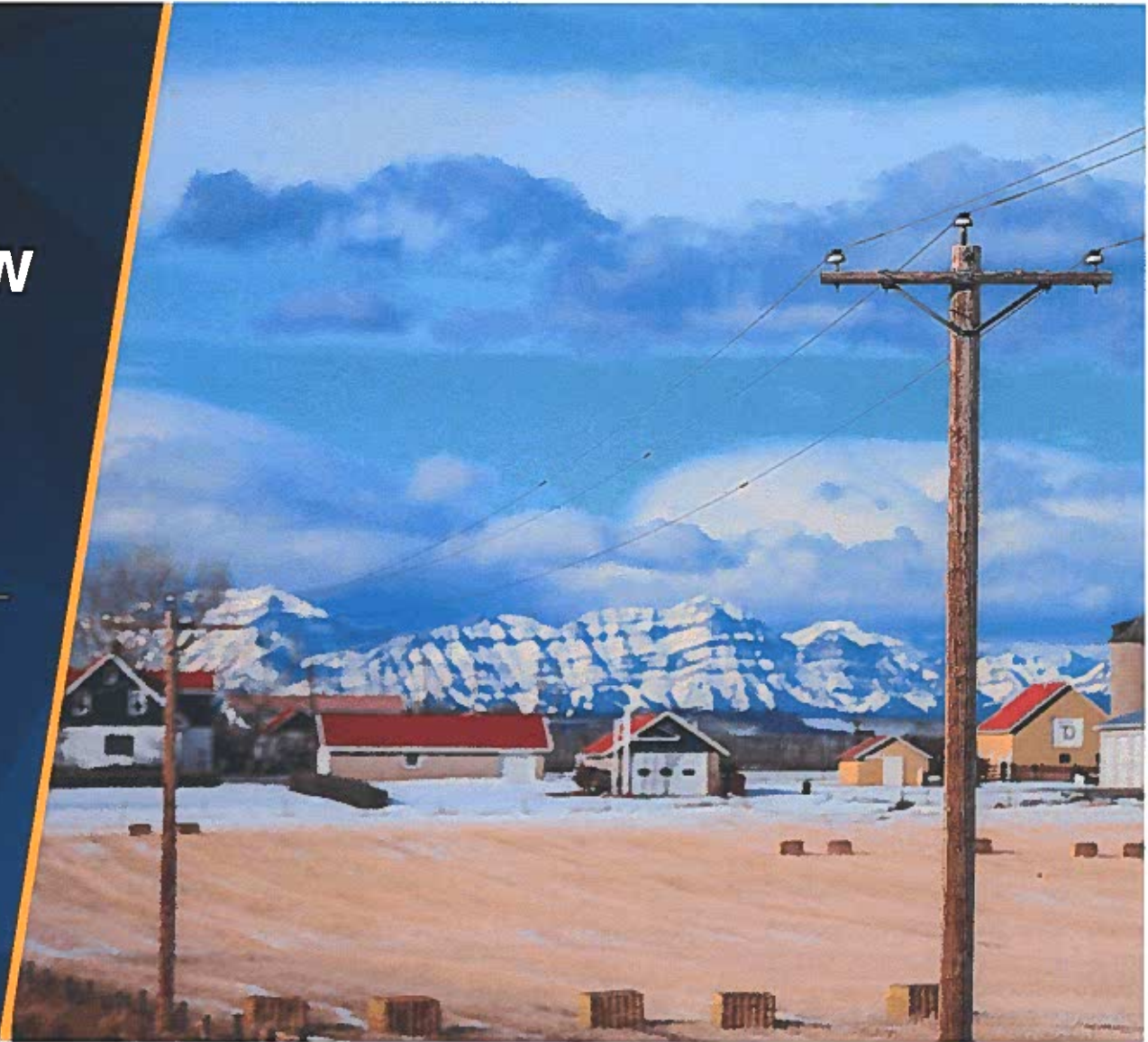
Nicky

# Section 46 Bylaw

Nicky Smith  
Stakeholder Relations Manager

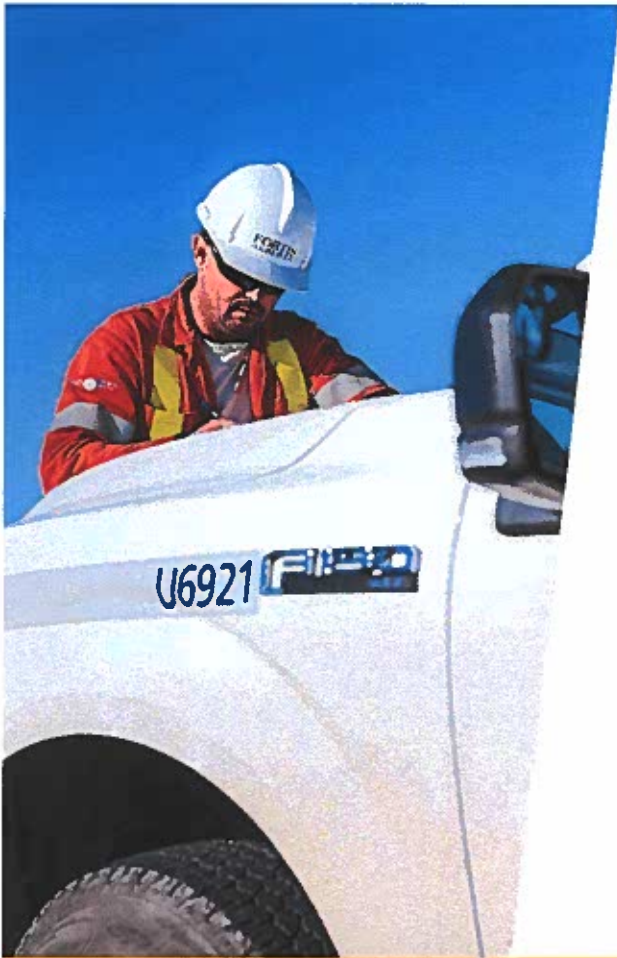
**FORTIS**  
ALBERTA

**MISSION ZERO**  
Bring it Home  **ZERO**  
Preventable Injuries



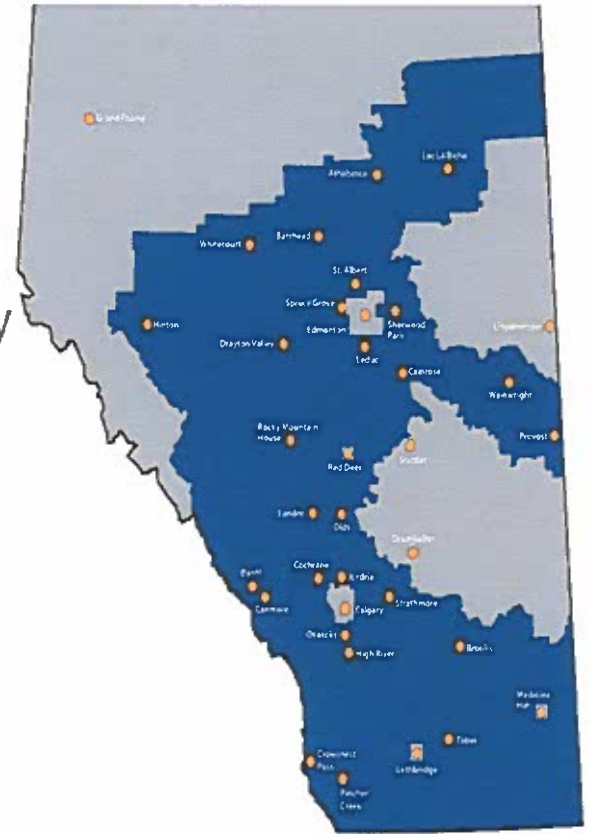
151





## WHO WE ARE

- Alberta company
- Regulated distribution-only utility
- Employs 1,100 Albertans
- Over 540,000 customers
- \$350 million/year in capital expenditures



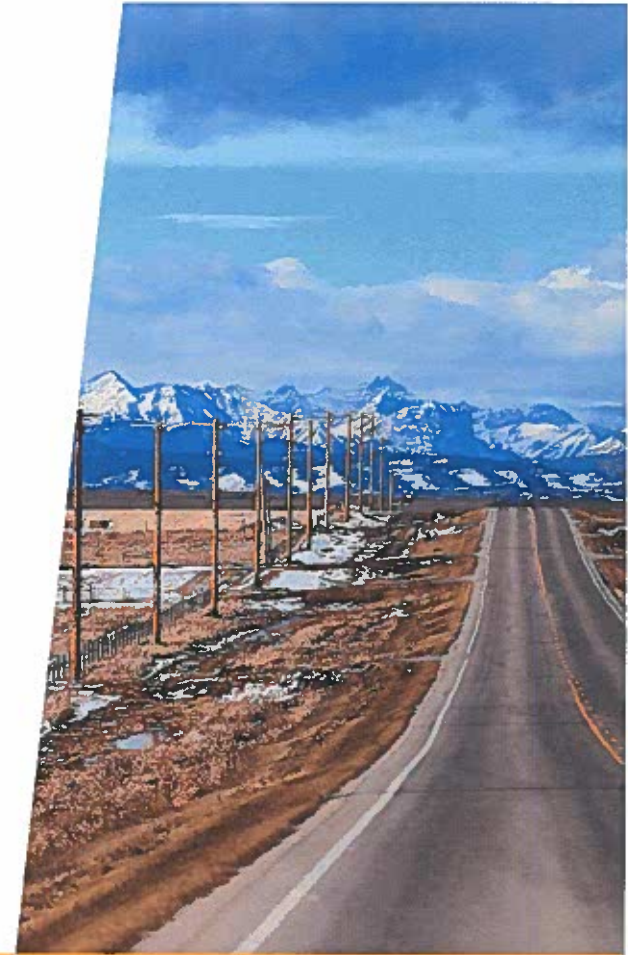
## BACKGROUND

- Past transfers due to annexations were largely cooperative between FortisAlberta and REAs
- In 2016, FortisAlberta undertook detailed internal review of boundaries of municipalities with whom FortisAlberta has MFA.
- This resulted in application to AUC to enforce exclusivity of those boundaries.
- This was successful before AUC in Decision dated July 16, 2018.



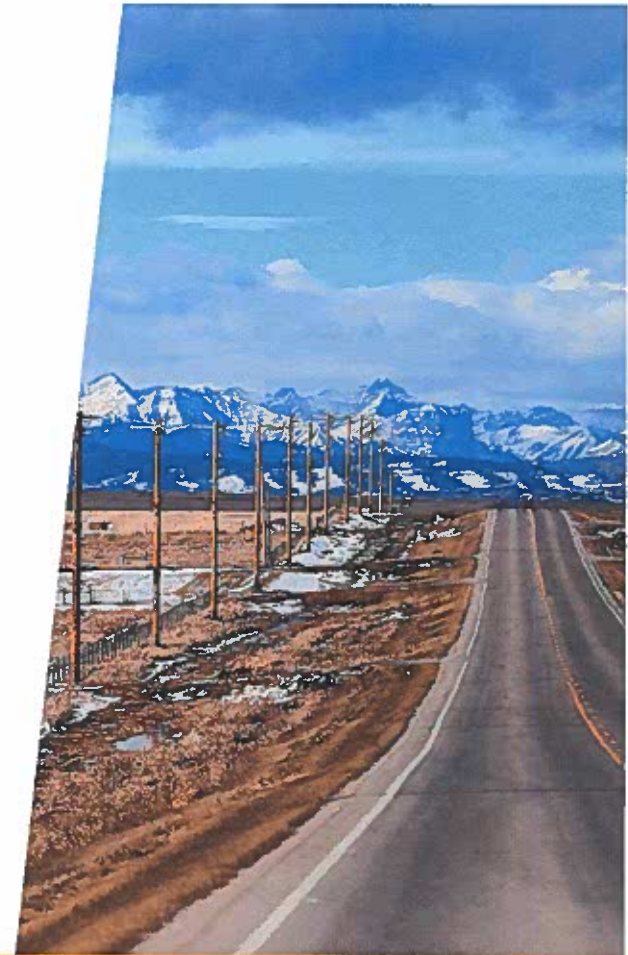
## WHAT IS A SECTION 46 BYLAW?

- Compels customers to connect to, and take electric distribution service from, FortisAlberta.
- It does so by prohibiting other utilities from providing same or similar utility service where municipality has MFA with utility provider for that service.



## KEY AUC DECISION FINDINGS

- Alteration of REA service areas that overlap with MFAs is in the public interest:
- Harmonizes service areas to reflect boundaries governed by MFAs, and is consistent with past AUC approval of MFA
- Supports public policy objective of avoiding unnecessary duplication of facilities
- Consistent with legislated purpose of municipalities and REAs and
- Supports the public policy goals of the Municipal Government Act (MGA)

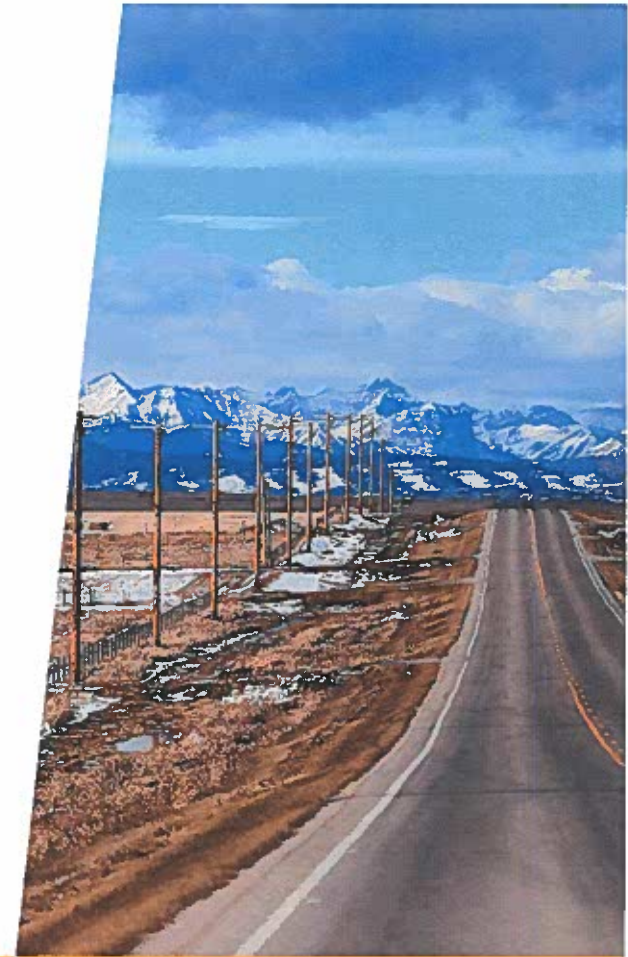


## KEY DECISION FINDINGS

- REAs will be compensated for the transfer of any sites
- No adverse impact on municipalities.
- No new REA members in municipal boundaries
- REAs must make existing members whose services fall within municipal boundaries subject to an MFA aware of the Decision

### MFA Clauses 4 & 12

- These were negotiated with AUMA and ATCO and approved by the AUC require municipality to support the Company, and for the Company to be responsible for all reasonable fees.



## BENEFITS TO PASSING THE BYLAW

- Increased revenue for the municipality.
- Clarity of service provider for staff and public.
- Everyone within the constituency being treated the same.
- Outage response time, Airdrie call centre.
- New technology and automation. Airdrie control centre.



# QUESTIONS?





ALBERTA  
SENIORS AND HOUSING

*Office of the Minister*

AR47602

May 22, 2019

Dear Municipality:

For more than 30 years, the Government of Alberta has recognized Seniors' Week to honour and celebrate seniors for their many contributions to our province. As Minister of Seniors and Housing, I encourage communities, organizations and all Albertans to take the opportunity to recognize and celebrate seniors during Seniors' Week, which takes place from June 2 to 8, 2019.

Enclosed is a Community Declaration, which was designed to support communities in recognizing Seniors' Week and to generate greater awareness of the importance of seniors in our communities. Please notify the province of your declaration by emailing [seniorsinformation@gov.ab.ca](mailto:seniorsinformation@gov.ab.ca) by May 29, 2019 so this information can be highlighted on my ministry's website, which also includes a promotional poster that can be printed.

In addition, Seniors and Housing is pleased to host an online events calendar. Across Alberta, organizations and communities host hundreds of events. I encourage you to visit the online calendar to register events and to see what is happening in your community. Please visit [www.alberta.ca/seniors-week.aspx](http://www.alberta.ca/seniors-week.aspx) for more information on Seniors' Week, to print the poster, or to access the events calendar.

I hope that you will join me in celebrating Seniors' Week 2019!

Sincerely,



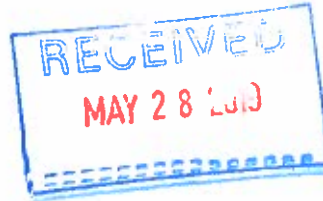
Josephine Poir  
Minister of Seniors and Housing

Enclosure

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May 23, 2019



Mayor Tracy and Councillors  
Town of Onoway  
PO Box 540  
Onoway, AB T0E 1V0



Dear Mayor Tracy and all Members of Council;

**Subject: 2019 ARPA Conference and Energize Workshop & ATRA Symposium  
"Growing Recreation Together!"**

On behalf of the Alberta Recreation and Parks Association (ARPA), I would like to invite you to our Annual Conference and Energize Workshop at the Fairmont Chateau Lake Louise from Thursday, October 24 to Saturday, October 26, 2019.

Our conference program includes the Energize Workshop, now in its 24<sup>th</sup> year. The workshop is a series of sessions on topical issues designed to provide you, as an elected official, with innovative ideas, solutions and opportunities in recreation, parks and community development. 525 delegates attended our conference in Jasper last fall, and nearly 100 of those attendees were mayors, reeves and councillors from across Alberta.

Recreation and parks are broadly recognized as essential public services that enhance quality of life and strongly aid in a community's economic growth and sustainability. Your presence at our conference makes a significant contribution to the dialogue around these issues and your ongoing support of our organization is much appreciated.

Our 2019 conference program has been informed by comments and suggestions from 2018 attendees, and our continual scan of the issues and trends in Alberta and across Canada. The event also provides a great networking opportunity in a welcoming, spirited and healthy environment, as attendees connect with friends and colleagues in a beautiful, natural setting. The detailed conference program will be available on our website later this spring at [www.arpaonline.ca/events/energize-conference](http://www.arpaonline.ca/events/energize-conference).

The program will reflect the goals of the **Framework for Recreation in Canada - Pathways to Wellbeing**, a document endorsed by every province, territory and the Federation of Canadian Municipalities (FCM), and also supported by the Government of Canada. The program will also be informed by the **Parks for All** framework that was released in January 2018 and also endorsed by the provinces, territories and federal government.

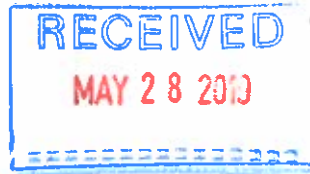
Our experience is that municipalities typically book accommodations well in advance of the conference, so if you plan on attending, we would encourage you to book your rooms soon. We look forward to seeing you there.

Yours sincerely,

Heather Cowie  
President

May 23, 2019

Mayor Tracy and Councillors  
Town of Onoway  
PO Box 540  
Onoway, AB T0E 1V0



Dear Mayor Tracy and all Members of Council;

**Subject: Awards from the Alberta Recreation and Parks Association and the Government of Alberta honour outstanding work in your community**

The Alberta Recreation and Parks Association (ARPA), alongside the Government of Alberta, is pleased to present a number of awards that celebrate leadership and inspire excellence in the province's recreation and parks sector.

Award recipients will be honoured in front of their peers at the President's Awards Banquet on Saturday, October 26, 2019, where 500 delegates will be in attendance at the Fairmont Chateau Lake Louise as part of our annual Conference and Energize Workshop. We believe this formal recognition inspires Albertans to further outstanding work, and we ask that you consider nominating deserving members of your community for one of the following prestigious awards.

**Lieutenant Governor's Leadership for Active Communities Awards**

These awards honour the achievements of groups and individuals who are leading their communities to increase citizen participation in active living, recreation and sport, resulting in healthier people and communities. This year's awards are Community Leader of Tomorrow, Corporate Community Leader and Outstanding Community Leader. The Lieutenant Governor will be in attendance at the President's Awards Banquet to present all three awards.

**Alberta Recreation and Parks Association's Awards**

ARPA celebrates excellence through a number of diverse awards, including the A.V. Pettigrew Award, presented to a community or organization that has made a significant impact on improving the quality of life of their citizens through recreation and parks.

**Government of Alberta's Recreation Volunteer Recognition Awards**

These awards honour volunteers who have made significant contributions to recreation development at the community level.

Please visit the ARPA website at [www.arpaonline.ca/awards/main](http://www.arpaonline.ca/awards/main) to view more details on each of the awards and to complete our online nomination form.

We look forward to reading about and recognizing the devoted individuals and groups working to improve your community, our province and the lives of Albertans.

Yours sincerely,

Heather Cowie  
President

11759 Groat Road NW • Edmonton • Alberta • T5M 3K6  
ph: 780-415-1745 • fax: 780-451-7915 • [arpa@arpaonline.ca](mailto:arpa@arpaonline.ca) • [www.arpaonline.ca](http://www.arpaonline.ca)





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## The Road Ahead:

### A Vision for Onoway's Future

"Onoway is a community where educational opportunities, economic prosperity and an ethic of cooperation and community involvement are pursued within the context of economic and ecological resilience and regional self-sufficiency.

Situated in the Lac Ste. Anne region, at the hub of major transportation routes, Onoway strives for balanced business development, environmentally sustainable industry, and ample recreational opportunities, while maintaining our friendly, respectful small town atmosphere.

Onoway honours our community's history, supports our youth, and is committed to partnership building."

(Town of Onoway Vision Statement approved by Town Council, December 16, 2010)

## Debbie Giroux

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**From:** Wendy Wildman <cao@onoway.ca>  
**Sent:** June 3, 2019 9:27 AM  
**To:** 'Debbie Giroux'  
**Subject:** FW: Bretzlaff Park

Deb – for our agenda under CAO Report – Bretzlaff Park

**Wendy Wildman**  
CAO  
Town of Onoway  
Box 540  
Onoway, AB. T0E 1V0  
780-967-5338 Fax: 780-967-3226  
cao@onoway.ca

**NOTE EMAIL CONTACT INFORMATION HAS CHANGED TO: [cao@onoway.ca](mailto:cao@onoway.ca)**

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**From:** Jason Madge <jason@onoway.ca>  
**Sent:** June 3, 2019 8:28 AM  
**To:** 'Wendy Wildman' <cao@onoway.ca>  
**Subject:** FW: Bretzlaff Park

Wendy as requested.

Jason Madge  
Public Works Manager  
Town of Onoway  
ph. 780-967-2309  
fax. 780-967-0685

---

**From:** [Trent Thompson](#)  
**Sent:** June 2, 2019 5:26 PM  
**To:** '[Jason Madge](#)'  
**Subject:** Bretzlaff Park

Jason,

Further to our discussions regarding Bretzlaff Park, here are my thoughts to complete the survey, site plan, and provide construction estimates for the work:

1. Site Topographical Survey: \$1,800 + GST

2. Prepare Site Plan (showing soccer field, tennis/pickleball court/basketball court/parking/access/etc) = \$800 + GST
3. Prepare Grading Plan (based on site plan to confirm drainage for budgets) = \$1,200 + GST
4. Provide Construction Budget for the work (will get budgets for stripping/grading, field construction, landscaping, etc): \$1,500 + GST

Regards,

Trent Thompson, P. Eng.  
General Manager of Engineering  
*Bolson Engineering and Environmental Services*  
Tel: (780) 668-8571  
[www.bolson.ca](http://www.bolson.ca)

Bretzlaff  
Park

**Wendy Wildman**

---

**From:** Wendy Wildman <cao@onoway.ca>  
**Sent:** May 3, 2019 3:14 PM  
**To:** 'wneilson@onoway.ca'; 'jody utri'; 'cflooren@hotmail.ca'; 'dmorrill@telus.net'; 'stc6smith@hotmail.com'  
**Subject:** Bretzlaff Park Survey FW: 8020999.tif  
**Attachments:** 8020999.tif; Untitled attachment 00184.txt

Good afternoon folks - we have had the Park surveyed. Attached is a map showing property lines.

W

Wendy Wildman  
CAO  
Town of Onoway  
Box 540  
Onoway, AB. T0E 1V0  
780-967-5338 Fax: 780-967-3226  
cao@onoway.ca

NOTE EMAIL CONTACT INFORMATION HAS CHANGED TO: cao@onoway.ca

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-----Original Message-----

From: Jason Madge <jason@onoway.ca>  
Sent: May 3, 2019 2:56 PM  
To: cao@onoway.ca  
Subject: 8020999.tif

Bretzlaff park property lines

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## YRL Board Executive Committee Highlights

May 13, 2019

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### Infrastructure Expenditures

- The infrastructure grant expenditures are almost finished with the following completed:
  - LED lights installed inside and out.
  - New hot water tank.
  - Boiler system updated.
  - Shipping, receiving and dock areas fully remodeled.
  - Bibliographic Services staff desks moved; new cubicle dividers installed.
  - Energy-efficient windows and semi-private roller blinds installed throughout.
  - Boardroom carpet replaced, and additional network and power installed.
  - Soffits and landscape curbing replaced.
  - Washrooms refurbished.
- Pending projects include paving/more curb work and construction of the garage.
  - The garage quotes and holdback were higher than anticipated.
  - The projects will come in close to the granted budget amount; however, there may be some unforeseen costs related to the final two activities.
- The committee approved a capital reserves expenditure not to exceed \$20,000 to cover any cost overages associated with the infrastructure improvements.

### Staff Request

- After being in-camera, the committee approved a one year leave without pay request.

### Draft 2020 Budget Direction

- Administration is preparing the draft 2020 budget with projections for 2021 and 2022.
- The first draft will be presented to the committee in August and again in early September, if modifications are needed, before going to the board for information in late September and for approval in November.

### Organizational Review – Dr. Margaret Law

- Dr. Law provided her background and the process she will use for the review.
- The final report, including findings, resulting recommendations and implementation guidelines, will be presented to the committee in August and the board in September.

### Advocacy

- Board Chair Hendrik Smit contacted the board chair and CEO/director of the other 15 libraries (nodes) that comprise the Alberta Provincial Public Library Network.
  - A one-page library advocacy document was created for use provincially.

- A welcome letter from the 16 library node board chairs was sent to the Honourable Kaycee Madu, Minister of Municipal Affairs.
- The Alberta Library (TAL) is presenting an advocacy webinar this month.
  - A recording of the webinar will be available online afterward.

**Annual Review: Policy Manual & Emergency Response and Business Continuity Plan**

- The policy manual and emergency plan reviews were postponed as revisions may be proposed in the organizational review recommendations.

**2019-2021 Plan of Service Workplan Status**

- The managers and chair updated the workplan status action items and provided a summary of meetings/events attended.

**Financial Statements**

- The first quarter statements were reviewed; there were no anomalies.

**New YRL Website**

- Client Services Librarian Jocie Wilson gave a demonstration of the new YRL website that will be launching soon.

**2019 MEETING AND CONFERENCE DATES**

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YRL Board Meeting.....	10:00 to 1:00, Monday, June 17
YRL Board Executive Committee Meeting .....	10:00 to 1:00, Monday, Aug. 26
YRL Board Executive Committee Meeting .....	10:00 to 1:00, Monday, Sept. 9
<u>YRL Conference</u> , River Cree Resort & Casino .....	9:00 to 4:15, Friday, Sept. 20

*Registration is now open! The early bird deadline is Friday, June 14.*



**#NOFILTER**  
**THE POWER OF LIBRARIES**

**RIVER CREE RESORT & CASINO, SEPT. 20/19**

YRL Board Meeting.....	10:00 to 1:00, Monday, Sept. 30
YRL Board Organizational Meeting.....	10:00 to 1:00, Monday, Nov. 25
YRL Board Executive Committee Meeting .....	10:00 to 1:00, Monday, Dec. 16

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**Debbie Giroux**

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*info*

**From:** Pat St.Hilaire <psthilaire@onoway.ca>  
**Sent:** May 28, 2019 4:18 PM  
**To:** cao@onoway.ca; Wade Neilson; Judy Tracy; Jeffery Mickle; Lynne Tonita; debbie@onoway.ca  
**Subject:** Fwd: Article (email 1 of 2)  
**Attachments:** Untitled attachment 00132.docx; Untitled attachment 00135.html; Winning posters.jpg; Untitled attachment 00138.html

So you see the posters

Sent from my iPad

Begin forwarded message:

**From:** Wanda Pederson <[wanda.pederson@ngps.ca](mailto:wanda.pederson@ngps.ca)>  
**Date:** May 28, 2019 at 3:57:15 PM MDT  
**To:** [psthilaire@onoway.ca](mailto:psthilaire@onoway.ca)  
**Subject:** Article (email 1 of 2)

Good afternoon,  
Here is the article done on the Legion presentation at our school.

I have submitted the article to the Daily Bulletin/Community Voice and will be placing it on our webpage and in our newsletter.

I am sending you separate emails with the photos as your email account wouldn't accept all photos and the newsletter...too big! Thank you for your assistance,

Regards,  
Wanda Pederson  
Onoway Junior Senior High School  
78-967-2271

(171)

## **Onoway Legion presents Remembrance Poster Awards to OJSH Students**

One of the commitments the Royal Canadian Legion has made is ensuring youth understand and continue the tradition of Remembrance. Through the Legion's Annual Poster and Literary Contests, students across Canada are given the opportunity to honour our Veterans through creative art and writing projects.

On Friday, May 24<sup>th</sup>, members of the Royal Canadian Legion Branch No. 132 (Onoway) visited Onoway Junior Senior High School to present two students who had entered the annual contest and were successful in their endeavours. Legion members Richard Moses (Vice-President) and Ted Latimer (Poppy and Remembrance) were joined by Onoway Town Councillor Pat St. Hilaire to present the awards.

Currently in Grade 8, Maya Roberts entered the Intermediate level black and white poster contest. Maya's poignant drawing of a military grave with battle boots, helmet and a posthumous medal won first prize at the Branch level and an Honourable Mention at the District Level. Maya's brother, Jake, attended the presentation where Maya was presented with certificates and a cash prize for her poster.

Current Grade 12 student Emily Fyfe entered her black and white drawing into the Legion contest at the Senior level. Her dramatic rendition of a warrior angel, dragging his poppy-filled parachute while carrying a fallen comrade to his rest won Emily first prize at the Branch level. Emily's drawing went on to win first place at the District level and then second place at the Command level. Emily's family was on hand to witness the award presentation where Emily was presented with three certificates and cash prizes. Emily said she was inspired to do the drawing by her father's service in the military.

Entries to the Legion's annual literary and poster contest are judged first at the local Branch level. Then, those winning submissions are forwarded to the District level. District level winning entries are then forwarded to the Command – or Provincial – level. The provincial winners are then sent to Dominion Command for judging. Entries for the contest have to be submitted by the November 15th deadline to the closest Legion branch.

