

**City of Medicine Hat  
Saamis Solar Park Approval Transfer to City of Medicine Hat  
Proceeding 29273  
Application 29273-A001**

**City of Medicine Hat's (City) Response to Alberta Utilities Commission Information  
Request Round 1**

**City-AUC-2024DEC05-001**

**References:** Exhibit 29273-X0001, 2024-08-27 Transfer of Ownership Cover Letter\_Final Signed, PDF pages 2 and 3;

**Exhibit 29273-X0014, EUA Section 95 independent assessment report - 2024-11-08, PDF page 3**

**Issue:** Phase 2 ownership

**Quotes:** Exhibit 29273-X0001, PDF page 2:

“In order to better match the generation from the Project with load growth, the City is exploring options to construct the Project in two or more phases, with the first phase preliminarily being set at no more than 75MWac [megawatt alternating current].”

Exhibit 29273-X0001, PDF page 3:

“If an amending application is required, the City will submit the appropriate application once more details are known.”

Exhibit 29273-X0014, PDF page 3:

“The City proposes to construct the Project in phases. The first phase would add up to 75 MW of solar generation capacity to the City’s fleet of generating units. The Assessment addresses whether adding up to 75 MW of solar capacity to the City’s existing generating units is in accordance with ss. 95(4) of the EUA [*Electric Utilities Act*]. The Assessment does not address whether constructing and operating the remaining 250 MW of Project capacity in subsequent phases would be in accordance with ss. 95(4).”

**Preamble:** The City is exploring options to split the construction of the project into phases. The independent assessment obtained by the Commission only considered the first phase of the project (75 MW). The Commission wishes to explore whether the City intends to hold an approval for the entire project if it is only intending to construct a portion of it at this time.

**Request:**

- (a) Please clarify whether the City is of the view that it can hold the current approval of the entire project at this time, given that the independent assessment only considered whether an additional 75 MW of solar capacity is in accordance with Section 95(4) of the *Electric Utilities Act*.

- (b) Please clarify whether the current project owner (Saamis Solar Park Limited) intends or is willing to submit an amendment application prior to the transfer to split up the current approval to reflect the project being constructed in phases.
- (c) Please clarify whether the current project owner (Saamis Solar Park Limited) intends or is willing to retain ownership of Phase 2 of the project.
- (d) When does the City intend to construct the remaining 250 MW of the project?

### Response

- (a) The City is of the view that it can hold the current approval of the entire project (the “Power Plant Approval”) at this time, notwithstanding that the independent assessment only considered the impact of an additional 75 MW of solar capacity is in accordance with Section 95(4) of the *Electric Utilities Act* (“EUA”). The language in section 95 of the EUA prohibits municipalities (or their subsidiaries) from holding, directly or indirectly, an interest in a “generating unit” or “energy storage resource” except in accordance with all the provisions of Section 95 and the regulations to the EUA. Subsection 95(4) creates an exception to the general prohibition stating:

(4) The City of Medicine Hat or a subsidiary of the City **may hold an interest in a generating unit** or energy storage resource if the generating capacity of that unit or the storage capacity of that storage resource and all other generating units and energy storage resources in which the City or a subsidiary of the City has an interest does not exceed the capacity that is needed to reliably meet the requirements of customers in the service area of the City.

The prohibition is the holding of an interest in a generating unit, which is defined in subsection 1(l) of the EUA to mean:

... the component of a power plant that produces, from any source, electric energy and ancillary services, and includes a share of the following associated facilities that are necessary for the sale, reliable and economic operation of the generating unit, which may be used in common with other generating units:

- (i) fuel and fuel handling equipment;
- (ii) cooling water facilities;
- (iii) switch yards;
- (iv) other items,

but does not include an energy storage resource;

A “generating unit” is a physical “component of a power plant”. The *Hydro and Electric Energy Act*<sup>1</sup> (“HEEA”) requires entities to obtain an approval before they construct a power plant, but the approval and the power plant (including its generating units) are not the same. The EUA does not prohibit the City from holding a power plant approval. Therefore, it is the City’s view that there is no contradiction between the City holding an approval under HEEA for a power plant and being constrained under section 95 of the EUA from only building or otherwise “owning an interest in” a part of the approved facility.

Notwithstanding the 325MW capacity of the Power Plant Approval, the City’s ability to proceed with the Project and to hold an interest in the physical generating unit and its components is subject to the capacity limits in the AUC’s determination under subsection

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<sup>1</sup> RSA 2000, c H-16.

95(5) of the EUA. If the requested transfer of ownership is approved, the City will hold only a power plant approval (and not a generating unit) for which, when read in conjunction with the Section 95 Approval, it will only have authority to construct and operate a portion of the generating units comprising the Project (there is currently no generating unit on the Project site). To proceed with the Project, the City must obtain an amendment to the Power Plant Approval; however, it cannot seek to amend an approval it does not hold and for a project it does not own.

As set out below, should the proposed acquisition not close, the City understands that the current owner of the Project intends to proceed with the Project in its entirety as originally approved and therefore, an amendment is only required should the transfer to the City be approved. The City's ability to proceed with the construction and operation of the Project is therefore conditional upon a subsequent AUC approval of an amendment application to align the Power Plant Approval with the outcome of the Section 95 Approval. The AUC has authority to impose such a condition pursuant to Section 19(1) of the *Hydro and Electric Energy Act*.<sup>2</sup> Further, any issues related to the City's ownership and the impacts of a phased approach to the development of the Project can be considered by the AUC at that time, with the participation of stakeholders and interested parties during the subsequent amendment application.

- (b) The City understands that the current Project owner does not intend to and is not willing to submit an amendment application prior to the transfer of the Power Plant Approval to facilitate development and construction of the Project in phases. As discussed in response to (a) above and in Exhibit 29273-X0020, amendment of the Power Plant Approval is only required if the AUC approves its transfer to the City.
- (c) The City understands that the current Project owner does not intend to and is not willing to retain ownership of Phase 2 of the Project. The City entered into the conditional Asset Purchase Agreement for the entire Project and once ownership has transferred and all conditions precedent have been satisfied, the City will apply to amend the Power Plant Approval to permit development of the Project in phases to match the requirements of customers in the service area of the City.
- (d) The City has not made any decisions with respect to the remaining 250 MW of the Project. Assessment of the generation and load forecast is included in Exhibit 29273-X0003 and the City would need to complete further assessment to determine additional load requirements.

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<sup>2</sup> RSA 2000, c H-16.

**City-AUC-2024DEC05-002**

**Reference:** Exhibit 29273-X0001, 2024-08-27 Transfer of Ownership Cover Letter\_Final Signed, PDF pages 2 to 3

**Issue:** Site layout

**Quote:** “In order to better match the generation from the Project with load growth, the City is exploring options to construct the Project in two or more phases, with the first phase preliminarily being set at no more than 75MWac. The changes are anticipated to remain within the outlined allowances within the AUC Approvals and will be reflected in the final project update which must be filed with the AUC at least 90 days prior to the start of construction. The City has contracted Kilo Power to prepare a preliminary site layout for the purposes of this application to ensure feasibility. Design for the remaining 250MW will be completed at a later date. If an amending application is required, the City will submit the appropriate application once more details are known.”

**Request:**

Please submit the preliminary site layout from Kilo Power and provide a summary of any other technical details regarding the site layout of the proposed 75-MW phase. If the preliminary site layout has not yet been prepared, please explain why.

**Response:**

Although subject to further amendment as the City engages in further technical studies and design, the preliminary site layout for the proposed 75-MW phase is included as Attachment A.

**City-AUC-2024DEC05-003**

**Issue:** Public consultation

**Request:**

- (a) Please explain whether the City conducted public consultation ahead of its decision to acquire the Saamis Solar Park and provide a summary of any public consultation.
- (b) What are the City’s consultation policies as they relate to asset purchases such as the Saamis Solar Park?
- (c) Was the City’s intention or decision to purchase the project made prior to or during the Commission’s consideration of the original application (Proceeding 27788)?

**Response:**

- (a) The City was not required to and did not conduct public consultation ahead of its decision to acquire the Saamis Solar Park (the “**Project**”). City Council is the proper forum to consider both whether the City should invest in the Project and any resulting impacts to tax payers and the Medicine Hat Utility rates. Announcing transactions involving commercially sensitive information (including confidential third party information) prior to the appropriate time could have a chilling effect on those willing to do business with the City and violate the City’s statutory duty under the *Freedom of Information and Protection of Privacy Act*<sup>3</sup> (Alberta) to maintain the confidentiality of certain third-party information. The transfer of ownership of the Project is a pre-requisite to the City undertaking detailed site design and related engineering (to reflect the smaller size of a first phase), commencing consultation with stakeholders or determining the scope of any phasing related amendments to the Power

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<sup>3</sup> RSA 2000, c F-25.

Plant Approval. After completion of this work and once a detailed business plan capable of informing a final investment decision has been prepared, a recommendation will be submitted to City Council for consideration. The decision to fund and construct the Project will be made by the duly elected City Councillors and requires budget approval in an open meeting. Further details on the City's review process are included in Exhibit 29273-X0020.

For clarity and with respect to the potential for future consultation should conditions to the Project development permits be contemplated in the future, the City's Planning Department has confirmed Development Permit No. PLD20210384 issued on August 27, 2021 inadvertently and incorrectly identified the applicable land use as "FUT" instead of "FUD" which stands for "Future Urban Development District" and showed the Development Category as "Permitted" instead of "Discretionary Use". The City confirms the land use for this Development Permit should be FUD and the Development Category should be "Discretionary Use". For a FUD designation, renewable energy projects are a discretionary use and any resulting amendments to the conditions would be subject to appeal to the Land and Property Rights Tribunal by any affected person pursuant to sections 685(2.1)(a)(i)(C) and 685(2.1)(b) of the *Municipal Government Act*<sup>4</sup> ("MGA") and section 27(3) of the *Matters Related to Subdivision and Development Regulation*.<sup>5</sup> Conversely, the exception contained within section 685(3) of the MGA limiting affected parties appeal rights would not apply.

- (b) The City considers and complies with legislated consultation requirements. Where there are no legislated consultation requirements, the City conducts a case-by-case assessment of the appropriateness of public consultation, including timing, being mindful of its legal and contractual duties of confidentiality. With respect to the Project, the City brought a funding request for energy transition projects to open council for the City's elected officials to consider and City Council approved an amendment to its existing budget to reflect funding for energy transition projects on April 3, 2023. At the current development stage of the Project there are no additional legislated consultation requirements. However, if the ownership transfer is approved by the AUC, any budget requests for any further project development will be brought forward for elected officials to consider and vote on in public meeting(s). This would include a public briefing note with additional details on the Project buildout and forecasted Project economics.
- (c) The City entered into a confidential Asset Purchase Agreement with the current owner of the Project in September 2023, which is subject to multiple conditions precedent to closing, including the successful transfer of the Power Plant Approval to the City.

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<sup>4</sup> RSA 2000, c M-26.

<sup>5</sup> Alta Reg 84/2022.