

City Of Red Deer
Electric Light & Power Department

Terms and Conditions for Retail Access Services

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FOR RETAIL ACCESS SERVICES
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TERMS AND CONDITIONS
FOR RETAIL ACCESS SERVICES

These Terms and Conditions set forth the terms and conditions upon which the City of Red Deer (the City) will provide Retail Access Services to Retailers. These Terms and Conditions shall be incorporated into, and form part of, the City's Distribution Tariff.

1.0 DEFINITIONS

The following words and phrases, whenever used in these Terms and Conditions, a Rate Schedule, a Schedule of Fees or a Retail Access Services Agreement, shall have the respective meanings set out below.

- a) "Alberta Interconnected Electric System" or "AIES" means the "interconnected electric system" as defined in the EUA.
- b) "Billing Period" means the time period between two consecutive regular monthly meter readings or estimates of such monthly meter readings.
- c) "Board" means the Alberta Energy and Utilities Board.
- d) "Business Day" means any day other than a Saturday, Sunday or a day which is a holiday as holiday is defined in the *Interpretation Act* (Alberta).
- e) "Business Guidelines for Retail Access" means the document setting out the rules and procedures for the business transactions between the City and Retailers, as may be modified by the City from time to time in relation to the provision of Retail Access Services under these Terms and Conditions.
- f) "City" means The City of Red Deer or an employee or agent designated by the City of Red Deer;
- g) "Customer" has the meaning ascribed thereto in the EUA.
- h) "Day of Flow" means a calendar day during which Distribution Access Services are provided.
- i) "De-energized" means the disconnection of metering or electrical equipment to the Distribution System that prevents Energy from flowing to the Site.
- j) "Demand" means the maximum rate at which Energy is delivered by the City (expressed in kilowatts, kilovoltamperes or other suitable engineering units) at a given instant or averaged over any designated period of time.
- k) "Department" means the Electric Light & Power Department of the City acting as the City's Wire Services Provider as defined in the EUA, and includes a person or agent authorized to act on its behalf.

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- l) "Distribution Access Service" means "distribution access service" as defined in the EUA.
 - m) "Distribution System" means "electric distribution system" as defined in the EUA.
 - n) "EIP" means the City's or a designated agent's Enrollment and Information Provision system.
 - o) "Electricity Services" means "electricity services" as defined in the EUA.
 - p) "Emergency" means (i) an abnormal system condition requiring manual or automatic action to maintain system frequency, or to prevent loss of firm load, equipment damage, or tripping of system elements that could adversely affect the reliability of an electric system or the safety of persons or property; or (ii) a fuel shortage requiring departure from normal operating procedures in order to minimize the use of such scarce fuel; or (iii) a condition that requires implementation of Emergency Operations Procedures as defined in the System Controller's/Transmission Administrator's Manual; or (iv) any other condition or situation that the City or the System Controller deems imminently likely to endanger life or property or to affect or impair the City's Distribution System or the electrical systems of others to which the City's Distribution System is directly or indirectly connected (a "Connected Entity"). Such a condition or situation may include but is not limited to potential overloading of the City's Distribution System, Facilities, transmission and/or distribution circuits, System Controller minimum generation ("light load") conditions, or unusual operating conditions on either the City's Distribution System, Facilities, transmission and/or distribution circuits or a Connected Entity's electrical system, or conditions such that the City is unable to deliver Energy for a Retailer without jeopardizing the City's Distribution System, Facilities, transmission and/or distribution circuits or a Connected Entity's electrical system.
 - q) "Energized" means the connection of metering or electrical equipment to the Distribution System that permits Energy to flow to the Site.
 - r) "Energy" means "electric energy" as defined in the EUA.
 - s) "Exchange" means "exchange" as defined in the EUA.
 - t) "EUA" means the *Electric Utilities Act*, S.A. 1995, c.E-5.5, including the regulations enacted thereunder, as re-enacted, amended, supplemented or replaced from time to time.
 - u) "Facilities" means the City's physical facilities including, without limitation, transmission and distribution lines, wires, transformers, meters, meter reading devices and other electrical apparatus.
 - v) "Force Majeure" means acts of God, strikes, walkouts, lockouts or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, high water, washouts, inclement weather, laws, orders, restraints or acts of courts or other public, civil or military authorities, civil disturbances, explosions, breakdown or accident to equipment, loss, diminution or impairment of electrical service from generating plants, suppliers or the systems of others with which the City's Distribution System is interconnected, failure of any supplier or Retailer to perform, and any other event or circumstance, whether of the kind herein enumerated or otherwise, not reasonably within the control of the City; provided that in no event shall the City's or the Retailer's lack of finances or inability to perform due to financial condition constitute Force Majeure.

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- w) "Load" means the Demand and Energy delivered or required to be delivered to a Site.
- x) "Load Settlement" means the functions set out in the Settlement System Code.
- y) "MDM" means Meter Data Management which includes the provision of meter reading and data management services, which are related generally to meter reading, data manipulation and data provision to market participants.
- z) "Month" means a calendar month.
- aa) "Person" includes an individual, firm, partnership, association, joint venture, body corporate, corporation, trustee, executor, administrator, legal representative or organization.
- bb) "Point of Delivery" is the measured interconnection point between the AIS (transmission) and the distribution system.
- cc) "Power Pool" means the "power pool" as defined in the EUA.
- dd) "Power Pool Administrator" means the person appointed from time to time under paragraph 9(1)(b) of the EUA.
- ee) "Prudential Requirements" means the requirements established by the City as set out in Section 11.1.2 of these Terms and Conditions.
- ff) "Rate Schedule" means a schedule forming part of the Distribution Tariff that sets out the charges to Retailers for the provision of Retail Access Services, as amended from time to time.
- gg) "Retail Access Services" means the services provided by the City to Retailers pursuant to these Terms and Conditions and includes without limitation Distribution Access Service and also includes MDM, load settlement, and meter services (as set out in Sections 7, 8 and 6 respectively of these Terms and Conditions) and other related services as offered by the City from time to time.
- hh) "Retail Services Agreement" means the agreement between the City and a Retailer which sets forth the terms upon which the City provides Retail Access Services to the Retailer and whereby the Retailer agrees to these Terms and Conditions for Retail Access Services and the associated Rate Schedule and Schedule of Fees.
- ii) "Retailer" means a "retailer", as defined in the EUA.
- jj) "Retailer of Record" means the Retailer who is listed in the City's records through the Business Guidelines for Retail Access outlined in Section 9 of these Terms and Conditions, and thereby recognized by the City, as a Customer's Retailer for a Site at a particular time.
- kk) "Schedule of Fees" means the schedule setting out charges for Retail Access Services.

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- ll) "Settlement System Code" means the Settlement System Code as established under the authority of the EUA and as amended from time to time by the Minister or the Executive Director of the Department of Resource Development.
- mm) "Settlement Zone" means the collection of Customers for which Load Settlement is calculated as described in the Settlement System Code.
- nn) "Site" means the point of end use consumption.
- oo) "Supplier of Last Resort" means a Retailer appointed by the City to provide services to Customers as set out in the Roles, Relationships and Responsibilities Regulation made under the EUA, as amended, supplemented or replaced from time to time.
- pp) "System Access Service" means "system access service" as defined in the EUA.
- qq) "System Controller" means the person appointed from time to time under paragraph 9(1)(c) of the EUA to carry out the system control function of the Power Pool.
- rr) "Terms and Conditions" shall mean these Terms and Conditions for Retail Access Services, as amended, supplemented or replaced from time to time.
- ss) "Terms and Conditions for Distribution Access Services" means the document, as amended, supplemented or replaced from time to time, which sets forth the terms and conditions upon which the City will provide Distribution Access Services to Customers.
- tt) "Transmission Administrator" means the person appointed by the Lieutenant Governor in Council to act as the transmission administrator pursuant to Part 3 of the EUA.
- uu) "Unaccounted for Energy" or "UFE" means the difference between total system Load and the total of the measured and estimated Loads of all the Sites including the allocated losses.

2.0 INTERPRETATIONS

2.1 Conflicts

If there is any conflict between a provision expressly set out in a Retail Access Services Agreement, Rate Schedule, Schedule of Fees and these Terms and Conditions, the express provision of the Retail Access Services Agreement, Schedule of Fees or Rate Schedule as the case may be, shall govern.

2.2 Headings

The division of these Terms and Conditions into sections, subsections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of these Terms and Conditions.

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3.0 GENERAL PROVISIONS

3.1 Tariff

The City furnishes its various Retail Access Services under a tariff (the "Distribution Tariff") which includes these Terms and Conditions, the Terms and Conditions for Distribution Access Services and the associated Rate Schedules, a Schedule of Fees and a *pro forma* Retail Access Services Agreement. The Distribution Tariff is available for public inspection during normal business hours at the business offices of the City or the Department, has been filed with the Board for information purposes and may be posted on the City's web site.

3.2 Effectiveness of Terms and Conditions

These Terms and Conditions are included as support for the Distribution Tariff and have been approved by the City of Red Deer. These Terms and Conditions come into force on January 1, 2001 and will be in force until another Distribution Tariff application is approved.

3.3 Amendment of Terms and Conditions

The City may amend these Terms and Conditions from time to time. When an amendment is approved, revisions will be made to the Distribution Tariff, with the effective date of the amendments indicated in the revised section(s).

3.4 Application of these Terms and Conditions

These Terms and Conditions apply to the City and each Retailer who enters into a Retail Access Services Agreement with the City.

3.5 Modification of Terms and Conditions

No agent or employee of the City is authorized to modify any provision, charge, or rate contained in these Terms and Conditions, the Rate Schedule or the Schedule of Fees or to bind the City to perform in any manner inconsistent with these Terms and Conditions, the Rate Schedule or the Schedule of Fees.

4.0 RETAIL ACCESS SERVICE

4.1 Provision of Retail Access Service

The City will offer Retail Access Services to Retailers who have demonstrated eligibility under the City's Eligibility Requirements set out in Section 11 of these Terms and Conditions. The City will provide Retail Access Services for the Retailer, upon and subject to the terms and conditions set out in these Terms and Conditions.

4.2 Initiation of Distribution Access Service

To initiate Distribution Access Services in respect of a Customer, the Retailer shall enroll that Customer, in accordance with Section 9 of these Terms and Conditions and the Business Guidelines for

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Retail Access. The Retailer shall not request enrollment until all applicable rescission periods have elapsed.

If the information on the enrollment request and other information required by the City is complete and correct, the City shall process the request for enrollment in accordance with Section 9 of these Terms and Conditions and the Business Guidelines for Retail Access. Once the City completes the processing of the enrollment request, the Retailer shall become the Retailer of Record for that particular Customer.

4.3 Reasonable Efforts

The City shall use reasonable efforts to minimize any scheduled curtailment, interruption or reduction of Distribution Access Service to the extent reasonably practicable under the circumstances, to provide the Retailer with prior notification of any such curtailment, interruption or reduction to the extent reasonably practicable, and to resume Distribution Access Service as promptly as reasonably practicable.

4.4 System Controller Requirements

The Retailer acknowledges and agrees that the City is bound by all System Controller operating instructions, policies and procedures as are set forth in the Power Pool Rules and Power Pool Codes of Conduct, as may be revised from time to time, which are needed to maintain the integrity of the Alberta Interconnected Electric System. The Retailer acknowledges and agrees that it will cooperate with the City so that the City will be in compliance with all System Controller operations procedures, which include, but are not limited to, those procedures pertaining to minimum and maximum generation Emergencies, and measures requiring involuntary Customer participation, such as supply voltage reduction or full interruption of Customer Load by either manual or automatic means.

4.5 Compliance With Governmental Directives

The Retailer acknowledges and agrees that the City may need to act in response to governmental or civil authority directives or regulatory orders, which may affect Customer Load. The Retailer agrees to cooperate with the City in order to enable the City to comply with all such directives or orders.

4.6 Disconnection

4.6.1 Disconnection of a Site

The City may disconnect a Site, and thereby discontinue Distribution Access Services in respect of a Customer, in accordance with the provisions set forth in the Terms and Conditions for Distribution Access Services.

4.6.2 Disconnection at Request of Retailer

The City will disconnect a Site and discontinue Distribution Access Services in respect of a Customer, where the Retailer requests on behalf of the Customer, physical disconnection of Distribution Access Services by submitting a "disconnection request" notice to the City.

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The City will discontinue Distribution Access Service in response to a request from the Retailer it has appointed as the Supplier of Last Resort upon receipt of a "disconnection request" notice.

4.6.3 Fees

The City may charge fees to Retailers for processing the transactions described in Section 4 of these Terms and Conditions in accordance with the Schedule of Fees which is attached as part of the Distribution Tariff.

5.0 ARRANGEMENT FOR SYSTEM ACCESS SERVICE

The City shall obtain from the Transmission Administrator, System Access Services that the City considers necessary to enable the transportation of Energy that will be sold or provided by a Retailer to its Customers. The Retailer shall be responsible for all charges paid or payable by the City to the Transmission Administrator for System Access Services obtained by the City for Customers of the Retailer.

6.0 METER SERVICES

The City provides all meter services within its service area. The City will only install meters approved by the City.

6.1 Provision of Meters

The City will provide, install and seal the meters for measuring Energy supplied to Customers of the Retailer in accordance with the City's Terms and Conditions for Distribution Access Services. A Demand meter will be installed as required.

6.2 Provision of Interval Meters

Time of use or interval meters shall be installed for a Customer who has a demand exceeding the threshold established by the City from time to time, in accordance with Settlement System Code. Once an interval meter has been installed, it will not be removed unless the City abandons the socket. For new Customers moving into existing space, the City will make an estimate of Site Demand, and if the estimate exceeds the threshold established by the City, an interval meter will be installed. For an existing Site where modifications are made to the infrastructure requiring Load to exceed the threshold established by the City, an interval meter will be installed. Where an actual meter is installed in accordance with this Section 6.2, the costs of the new interval meter, including installation, will be borne by the City.

6.3 Changes to Metering Equipment

A Retailer or a Customer can request a new meter.

Customer requests for a new meter will be processed as per the City's Customer Service Guidelines.

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Should a Retailer request a new meter and/or a communication device be attached to the existing meter, the request shall be made in accordance with the provisions set out in the Business Guidelines for Retail Access and the City shall provide, install, test, and maintain the requested metering and/or communication device. The Retailer shall bear the cost incurred by the City in providing and installing the meter or attaching the communication device per the Schedule of Fees. Upon installation, the meter or communication device shall remain the property of the City and will be maintained by the City. The City shall complete installation of the meter or attachment of the communication device, if reasonably possible, within 60 days of receiving a request from the Retailer. The City shall invoice the Retailer upon installation and the Retailer shall make payment prior to the meter being energized or the communication device being placed into service.

6.4 Meter Testing

The City will test any meter provided by the City at the request of the Retailer subject to the charges set out in the Schedule of Fees which form part of the Distribution Tariff. If a Customer suspects that its meter may be malfunctioning, the Customer may request that its Retailer arrange for testing of the meter. If the Retailer determines an off-cycle read or test of the meter is warranted the Retailer may request that the City test the meter. If the City determines the meter is operating outside tolerances specified by Measurement Canada, the cost of testing and replacement will be borne by the City. In all other circumstances, the Retailer will be responsible for the costs incurred by the City to test the meter in accordance with the Schedule of Fees.

6.5 Meter Service Requests

All standard meter service requests from Retailers including new meter installation, meter upgrades, exchange of meters, installation of meter communication devices, verification of meter accuracy and installation of Load limiting devices, and non-standard meter service requests including the provision and installation of pulse initiators (for Building Management System or Energy Management System), certification of non-revenue meters for Retailer/Customer use only and installation of non-revenue meter for Retailer/Customer use only, will be processed as per the Business Guidelines for Retail Access.

6.6 Meter Upgrade and Non-standard Meters

Requests by Retailers for the provision of a meter up-grade and non-standard meters, communication equipment and data field recordings will incur an extra service charge as indicated in the Schedule of Fees that forms part of the Distribution Tariff.

7.0 METER DATA MANAGEMENT

Meter Data Management (MDM) includes the management of all consumption data, including information from non-interval and interval meters. Subsections 7.1 to 7.4 inclusive refer to standard services received by Retailers under the Distribution Tariff in accordance with the rates set out in the Rate Schedule which forms part of the Distribution Tariff. Estimation algorithms are recorded and maintained for consumption data as it is stored. This information is available to the appropriate Customer and/or Retailer upon request.

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The City's validation, editing and estimation (VEE) standards will be reviewed and modified from time to time as appropriate. Retailers will be responsible for acquiring information about meter reading cycles of the Customer.

7.1 Meter Reading

The City shall use its best efforts to take an actual meter reading in accordance with the following:

7.1.1 Schedule for Meter Reading

The following meter reading requirements will be used for remotely read interval meters:

Remotely read interval meters will be read daily. The read day will be midnight on the day before the Day of Flow to midnight on the Day of Flow.

- By noon on the first Business Day after the Day of Flow, 80 percent of the interval data for the prior day for which the City is responsible, will have undergone VEE.
- By noon on the second Business Day after the Day of Flow, 100 percent of the interval data for the Day of Flow for which the City is responsible, will have undergone VEE.
- If actual interval data is not available, an estimate will be made in accordance with the time periods set out herein.
- VEE standards will be used to determine the maximum amount of estimated data that may be used.

The following meter reading requirements will be used for interval meters that are not remotely read:

- Non-remotely read interval meters will be read once per month.
- By noon on the first Business Day after the meter reading, 80 percent of the interval data for the prior period, for which the City is responsible, will have undergone VEE.
- By noon on the fourth Business Day after the meter-reading day, 100 percent of the meter data for which the City is responsible will have undergone VEE.
- If actual interval data is not available, an estimate will be made in accordance with the time periods set out herein.

The following meter reading requirements will be used for consumption meters that are not remotely read:

- Consumption meters that are not remotely read must be read at least as often as they are currently read.
- By noon on the third Business Day after the scheduled meter reading, 80 percent of the consumption data for which the City is responsible will have undergone VEE.
- By noon on the fourth Business Day after the meter-reading day, 100 percent of the consumption data for which the City is responsible will have undergone VEE.
- If no reading has been obtained by the fourth Business Day after the scheduled meter reading, an estimate will be provided in accordance with VEE rules.

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7.1.2 Record of Meter Readings

An accurate record will be kept by the City of meter readings which will be the basis for bills rendered by the Retailer to its Customers for Electricity Services and rendered by the City to the Retailer for Distribution Access Services provided for Customers of the Retailer.

7.1.3 Off-Cycle Reads

The City will read any meter provided by the City at the request of the Retailer subject to the charges set out in the Schedule of Fees which forms part of the Distribution Tariff. If a Customer suspects that its meter may be malfunctioning, the Customer may request that its Retailer arrange for an off-cycle meter read. If the Retailer determines an off-cycle read of the meter is warranted the Retailer may request this of the City. If the meter is malfunctioning, the cost of read and replacement are borne by the City.

7.1.4 Exchange of Data

The City will use the following process to exchange usage and non-usage meter data with Retailers:

Medium for the Exchange of Meter Data:

- The City will use internet for the exchange of both interval and consumption data in a format set out in the Settlement System Code.

Medium for the Exchange of Non-usage Meter-related Data:

- If a Retailer requests meter characteristic information for a Customer it has enrolled as described in Section 9 of these Terms and Conditions, the data will be exchanged via E-mail or Fax.

7.2 Estimated Consumption

The amount of Energy and Demand used by a Customer of the Retailer at a Site will be estimated by the City based on the best available sources of information to:

- Provide Retailers with estimated values for their billing purposes, and
- Provide the City with estimated usage and Demand values for purposes of billing for Distribution Access Services.

Estimated values will be used:

- Where a meter is inaccessible due to conditions on the Customer's premises;
- If the seal of a meter is broken or if from any cause, the meter does not register correctly;
- If the meter reading fails automated validation; or
- If for any other reason the meter reading accuracy is considered suspect by the City.

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7.3 Unauthorized Use of Electricity

Where the City determines that there has been unauthorized use of electric service including, but not limited to, meter tampering, unauthorized connection or reconnection, theft, fraud, intentional or unintentional use of Energy whereby the City is denied full compensation for Retail Access Services provided, the City will inform the Retailer of the City's estimate of such unauthorized use consistent with Section 4 of the Terms and Conditions for Distribution Access Services.

7.4 Reporting

7.4.1 Metering Information

The City will be the sole source of metering information for all market participants in the City service area. Every Business Day, the City will send to Retailers the following information:

- Any new validated, estimated and edited (VEE) monthly consumption meter reads available as of that Business Day (including demand-metered customers).
- Any new validated, estimated and edited interval (VEE) meter readings available as of that Business Day.
- Any adjustments to previously forwarded metering data.

The City will send both the consumption value and the dial reads.

The above information will be provided according to procedures outlined in the Settlement System Code.

7.4.2 Remotely Read Interval Meters

Hourly usage data from remotely read interval meters will be made available on a daily basis. The City will make its estimation algorithms publicly available. Requests for additional information or information in a different format than that set out in the Settlement System Code, if available, will be made available to the requestor on a fee-for-service basis. The City retains the right to decline information service requests, based on information complexity, and availability of both data and resources.

8.0 LOAD SETTLEMENT SERVICE

Load Settlement is the process of combining real measurements and statistical disciplines to allocate Energy consumption values for each hour of each day for each Retailer.

8.1 Responsibilities

The primary responsibilities under Load Settlement are the measurement and estimation of hourly usage, losses, and Unaccounted For Energy (UFE). Procedures for measuring and estimating are described in detail in the Settlement System Code. The main functions are:

- Determine the hourly Energy consumed at each Site,
- Allocate to each Retailer the hourly Energy consumed,

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- Calculate and allocate hourly system losses and UFE,
 - Report settlement system operational diagnostics,
 - Provide settlement data to the Power Pool.

Hourly Load estimates for non-interval metered Customers will be based upon Load profiles.

8.1.1 Hourly Energy Consumption

Total energy consumption for each settlement hour will equal the total Point of Delivery (POD) readings for that hour within each Settlement Zone.

8.1.2 Distribution Losses and Unaccounted For Energy (UFE)

Distribution losses are calculated based on total system Load. The hourly loss factors used in the calculation will be based on the month and the day of the week.

Unaccounted For Energy is calculated as the total system Load minus the sum of:

- deemed Loads
- total interval-metered Load
- total Energy allocated by Load profiles to non-interval metered Sites
- total allocated system losses.

Distribution losses are allocated to each Retailer based on its share of total energy consumption for the Settlement Zone. Unaccounted For Energy is allocated to a Retailer for the Settlement Zone based on its share of total Energy consumption plus losses.

8.2 Settlement Process

8.2.1 Settlement Calculations

Settlement for each day is performed in three phases. Initial Settlement is carried out within a few days of the Day of Flow, Interim Settlement is carried out after approximately three months and Final Settlement is carried out after approximately seven months. The Settlement System Code describes the settlement process in detail. The City will use the "rolling daily" method for Interim and Final Settlement as described in the Settlement System Code.

Initial Settlement is based largely on estimates and forecasts. Actual meter data are incorporated in the Interim and Final settlement. No further data changes are incorporated after the Final Settlement. Revisions after Final Settlement will be on a financial basis outside of the Load Settlement processes.

8.2.2 Settlement Interval

The time interval during which Load obligations must be calculated is set by the Power Pool and is not directly within the control of the City. Currently the Power Pool makes settlements based on hourly intervals.

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8.3 Load Profiling

8.3.1 Profiling

The profiling cap for the City is established at 2000 kVA. All Sites with Load above that level are or will be equipped with interval meters. Profiles are not required for interval metered Sites.

The City will utilize the following for Load profiling:

- Adjusted Net System Load Shape for all Sites except unmetered Sites and Sites with interval meters.
- Deemed Load profiles for unmetered Sites.

8.3.2 Deemed Load Profiles

Deemed Load profiles are pre-specified Load shapes defined in advance. The City will only use "deemed profiles" for unmetered Sites. Examples of unmetered loads include, but are not limited to the following:

- street lighting;
- traffic lights;
- telephone booths; and
- outdoor advertising signs.

8.4 Reporting/Posting Information

Settlement algorithms, Load profiles, UFE, losses, loss classes and Settlement Zone consumption data will be made publicly available. Individual Retailers will have access only to their consumption data, being restricted from access to other Retailers' consumption data. Information reporting will be consistent with the Settlement System Code.

The Settlement System Code calls for a number of standard content, standard format electronic transactions which the City will implement as described therein. A number of standard content, non-standard format transactions are also described. These are implemented in a variety of ways including electronic interface via internet, fax, e-mail, or telephone. For transactions and requests supported on the internet, the website will be the only mechanism provided, and its use will be considered mandatory.

8.5 Fee For Service

Custom reports and other data will be provided to Retailers on request, on a fee-for-service basis as per the Schedule of Fees which forms part of the Distribution Tariff. These reports and data might be expected to include detailed extracts of data that is used in settlement but not provided in the standard information complement as mandated by the Settlement System Code. The provision of reports and data requested under this Section may be subject to Customer consent.

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9.0 ENROLLMENT

Enrollment is the process whereby a Retailer declares a relationship with a Site. That is, it communicates to the City that it assumes responsibility for Retail Access Service for that Site.

Retailers are required to use the enrollment process described in the Settlement System Code. All enrollments will be carried out by Site identifier.

The City provides a capability to look up Site identifiers within its service area on the internet.

A Site must be enrolled with a Retailer before Energy can flow.

9.1 The City and Retailer Shared Responsibilities

9.1.1 Supply of Data and Information

The Retailer and the City shall supply to each other all data, materials or other information that is specified in these Terms and Conditions, or that may otherwise reasonably be required by the Retailer or the City in connection with the provision of Retail Access Services.

9.1.2 Record Retention

The Retailer and the City shall comply with all record retention provisions of the EUA, as they are and may, from time to time, be modified.

9.2 The City Responsibilities

9.2.1 Towards Retailers

The City undertakes to do the following in accordance with these Terms and Conditions:

- Maintain Site information for all Sites that are included in Load Settlement;
- Maintain an on-line service to allow any qualified Retailer to find the unique Site identifier, given the address of the Site;
- Process, in a standard manner, all enrollment requests that are received, irrespective of the identity of the Retailer submitting the request, and under the assumption that the Retailer has permission to enroll the Site;
- Maintain Customer information as it is supplied by the Retailer; and
- In the event of a Retailer failure or default, pass Site and Customer information for affected Customers to the Supplier of Last Resort.

Enrollment discrepancies, depending on the severity and frequency, may be reported to the Market Surveillance Administrator for further investigation.

9.2.2 Codes of Conduct

The codes of conduct contained or made pursuant to the regulations under the EUA are incorporated into these Terms and Conditions by reference.

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9.2.3 Retailer/Customer Relations

The City is neither bound by, nor will it enforce contracts between Retailers and their Customers. Additionally, the City will not mediate disputes between a Retailer and its Customers.

The Retailer is required to obtain authorization from the Customer pursuant to these Terms and Conditions, or applicable statutes or regulations and such authorization shall be in verifiable form. The Retailer will make such authorization available to the City upon request.

9.3 Retailer Responsibilities

Retailers will:

- Ensure that they have the requisite authorization from their current or prospective Customers before initiating any Customer related transaction;
- Use the unique Site identifier as the primary means of communicating changes to Site status;
- Provide the City with up-to-date basic Customer information (including emergency contact, account name, addresses and phone numbers) for all Sites that they service; and
- Be responsible for all charges associated with a Site until seven (7) Business Days after a request to drop the Site is received by the City in accordance with Section 9.11 hereof, or another Retailer enrolls that Site.

The Retailer shall be responsible for having all necessary and appropriate contractual or other arrangements with its Customers consistent with applicable statutes and regulations and these Terms and Conditions.

The Retailer is obligated to have obtained the Customer's permission to access account history, and to only request information for dates to which they are entitled (only for the time that the Customer was present at that Site).

9.3.1 Retailer Due Diligence in Customer Switch

It is the Retailer's responsibility to ensure that the Customer enrollment is valid. Retailers are expected to have the required authorization from the Customer for the switch (i.e. that the Retailer has checked that the Customer wishes to be switched, and has explicitly given approval for the switch).

9.3.2 Enrollment Submission and Notification

Retailers must comply with the City's enrollment submission and notification procedures. When making an enrollment request, Retailers must supply:

- A "Select Retailer" request as specified in the Settlement System Code; and
- An "Update Customer Information" transaction, as specified in the Settlement System Code.

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In addition, Retailers must comply with the Enrollment Mechanics as described in the Settlement System Code.

The City requires a full complement of customer information as described in the Settlement System Code in the "Update Customer Information" transaction. Missing or incomplete Customer information will result in rejection of the enrollment request.

Retailers may submit enrollment notices (with associated Customer information notices) either via a batch file, or through the City's enrollment system. In both instances, initiating Retailers will be provided with confirmation of the results of the processing, including any reasons for rejection. Where an enrollment is successful, the City will inform the old Retailer of Record at that Site, if any, of the loss of service and the date this loss will occur.

9.4 Provision of Consumption History to Retailers

The City will provide Retailers with consumption history in respect of a Customer upon request, in the form of monthly consumption and, where applicable, interval-based consumption.

The City will maintain live data of Energy usage for a minimum of the preceding 12 month usage period and shall release the information within 14 days of receiving the Retailer's request. This information will be provided in an electronic format in accordance with the Settlement System Code .

9.5 Processing Enrollments

Enrollments or switches are allowed at any point in the Customer Billing Period, and may therefore occur on any day. Only one enrollment will be processed to take effect on any one day for a given Site, with the first transaction for that day taking effect and all others being rejected.

Enrollments will not be processed retroactively.

To avoid using estimates, either the "old" or "new" Retailer can request an off-cycle meter read to coincide, as much as possible, with the date of switch. A fee for this service will be charged to the requesting Retailer as per the Schedule of Fees attached as part of the Distribution Tariff.

9.6 Termination of Retailer Relationship with Customer

To terminate its relationship with a Customer, a Retailer shall submit a "De-Select Retailer" notice to the City, in accordance with the Settlement System Code.

9.7 Customer Moves

A Customer of a Retailer that moves within the City's service area shall have the opportunity to notify the City that the Customer seeks to continue Distribution Access Service with its current Retailer. Upon such notification, the City shall send a "customer move" notice to the Retailer in accordance with the Business Guidelines for Retail Access. In the event that the Customer notifies its Retailer directly of its move within the City's service area, the Retailer shall direct the Customer to notify the City of the move.

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9.8 Change of Retailers

Customers shall be permitted to change Retailers no more frequently than once per Business Day with the most recent meter reading adjusted to reflect the switch occurring at midnight of that Business Day. When a Customer receiving Distribution Access Services from its current Retailer enrolls for Distribution Access Service with a new Retailer and that Retailer enrolls the Customer with the City in accordance with these Terms and Conditions and the Business Guidelines for Retail Access, the City shall send the existing Retailer a "customer drops retailer" notice, in accordance with the Business Guidelines for Retail Access.

9.9 Customer Information

Retailers shall submit a "change enrollment detail" notice to the City in order to change any Customer enrollment information.

9.10 Energize Site

The City records that a Site has been Energized at the successful conclusion of the process of requesting an Energy service connection. Requests for service are processed manually as follows:

- The Retailer will be the party requesting the service connection, on behalf of the Customer;
- The Retailer must provide the Site's up-to-date basic Customer information (including emergency contact, account name, addresses and phone numbers), information regarding the location of the premises to be served, the Customer's connected Load and preferred supply conditions and the manner in which services will be utilized;
- The City will ensure that the Site is enrolled with that particular Retailer before commencing service;
- The Retailer must provide an estimate of the average monthly consumption for use in settlement prior to establishing actual consumption figures based on meter readings. The City will authorize this estimate, and override the number where it considers a revised figure to be more appropriate;
- The City will use an on-line system to record that the Site has been Energized after the service connection has been made;
- The Retailer will provide any other information outlined in the City's Customer Service Guidelines or that the City reasonably requires.

9.11 Drop Site

Dropping a Customer (strictly, dropping a Site) breaks the link between a Retailer and a Site, so that the Retailer is no longer responsible for Settlement or wholesale billing charges for that Site. The only other way that the Retailer/Site link can be broken is by another Retailer enrolling the Site. Retailers must inform Customers of their intent to drop, and of the Customer's rights to apply, to the Supplier of Last Resort, at the same time the Retailer request to drop the Site is submitted.

The City will make the drop request effective 7 Business Days after receipt of the request to drop. Any request by another Retailer to enroll the Site received within the 7-day waiting period will "stop the clock" on the drop request, the enrollment request will be processed and the drop request will be terminated. The "old" Retailer will be informed of the date the Site is dropped or lost through enrollment.

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In the event that the full drop waiting period expires without a request by another Retailer, the City will pass the information it has about the Site and the Customer at this Site (if any) to the Supplier of Last Resort, thereby automatically transferring responsibility.

Drops can occur when a Retailer is unable to continue to provide service to its Customers in the City's service area. This can happen either through financial failure, or other performance reasons that cause the Retailer to lose entitlement to operate in the area. In such an event, the City will notify all affected Customers of the problem and using the latest information provided by the failed Retailer, will provide currently held information on the affected Sites and Customers (if any) to the Supplier of Last Resort. The City will automatically switch the responsibility for the affected Sites to the Supplier of Last Resort.

9.12 De-energize Site

Retailers may request that the City disconnect services to any Site that they are servicing. As required by the EUA and the Fair Trading Act, the Retailer must provide sufficient notice to the incumbent Customer (if any) to enable the Customer to gain enrollment with the Supplier of Last Resort prior to disconnection. The De-energization of any socket will be performed by the City and in the manner determined by the City. New enrollment with the Supplier of Last Resort overrides any request for disconnection.

9.13 Retiring Site Identifier

Site identifications, once created and Energized, are included in Load Settlement and form the basis for billing until the Site is abandoned by the City. The City deletes Site identifiers when no longer in use through an on-line Site identification maintenance system. Sites cannot be "retired" unless they are de-energized.

9.14 Identification Numbers

Electronic information exchange between the Retailer and the City under these Terms and Conditions shall employ a Retailer identification number, assigned by the City. In addition, the City will assign a Customer identification number to each Customer of the Retailer, and a Site identification number to each Site of each Customer of the Retailer and will provide the identification numbers to the Retailer.

9.15 Provision of Consumption History to Customers

Upon request by the Customer, the City will provide the Customer's consumption history directly to that Customer, in electronic or in paper format. There will be a fee associated with such (manual) requests, dependant on the nature of the request (monthly or interval), the format of the electronic output (CSV, Excel or other) and the volume of data provided as per the Schedule of Fees which forms part of the Distribution Tariff.

For interval meters, the City will provide the data to the Customer in an electronic format in accordance with Settlement System Code Daily Interval Meter Readings or, for an additional fee, in

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a format otherwise specified. The additional fees will be as per the Schedule of Fees which forms part of the Distribution Tariff.

10.0 BILLING

The City will bill Retailers separately for Distribution Tariff services and transaction related services.

10.1 Billing for Distribution Tariff Services

The City will provide monthly bills to each Retailer by Customer rate class in accordance with the Distribution Access Rate Schedules. The bill will include a summary and detailed tariff calculations by rate class for the Billing Period and adjustments based on interim and final reconciliations of prior Billing Periods.

Bills for Retail Access Services from the City are due and payable 15 days after the date of billing as indicated on the bill.

10.2 Billing for Transaction Service and Fee Based Services

The City will bill for transaction services and fee based services on a monthly basis unless otherwise agreed to in writing. The invoice will contain an itemized list of services provided, charges and Customer contact information. Transaction-based or fee based services will be billed at the end of the month in which the work was completed or according to a negotiated billing schedule.

Bills for transaction services and fee based services from the City are due and payable 30 days after the date of billing as indicated on the bill. Payment shall be made by electronic funds transfer to the bank account specified by the City or by cheque payable to the City.

Where a Retailer's service requirements change, the City will incorporate the changes in the billing cycle following amendment of the Retail Access Services Agreement.

10.3 Payment by Customer

Retailers will be responsible for any direct billing to and collections from their Customers.

10.4 Late Payment Charges

Any invoice rendered to a Retailer for which valid payment has not been received in accordance with Section 10.1 and Section 10.2 hereof shall be considered past due. On the first day following the payment due date, late payment charges at a rate established by the City will be applicable to all overdue billed amounts, including arrears and previously unpaid late payment charges. The City reserves the right to change the rate for late payment charges with thirty (30) days' notice to all Retailers.

Payments will be applied to arrears first and then to current charges.

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10.5 Default/Failure to Pay

Distribution Tariff Services

Retailers who fail to make payments on time will be notified immediately. Failure to make full payment after notification may result in suspension of Retailer Eligibility status in accordance with Section 14 of these Terms and Conditions.

Transaction Service and Fee Based Services

Retailers who fail to make payments on time for transaction services and fee-based services will be subject to normal credit action, which may include, but is not limited to:

- Reminder letters;
- Notification by phone;
- Use of collection agencies;
- Requiring prepayment before additional service;
- Withholding of additional service; and
- Legal action.

10.6 Estimated Invoices

If a meter is not read in a particular month or when scheduled for any reason or if the meter for any reason fails to register the correct amount of Energy supplied or the correct Demand of any Customer for a period of time, the City shall make a reasonable estimate of the consumption of Energy during those periods for billing purposes. Such estimated invoices shall be payable as rendered. When an invoice is based on an estimate, an adjustment to reflect actual usage will be made, if possible, after the meter is next read.

10.7 Payment of Accounts

The Retailer shall pay the entire amount stated on the bill by the due date without deduction, set-off or counterclaim, notwithstanding any dispute in whole or in part of the amount. Invoices shall be deemed paid when payment is made either by way of cheque or electronic funds transfer to the bank account specified by the City pursuant to the Retail Services Agreement. Payments received in foreign currency will be credited to the Retailer's account based on the foreign exchange dealer bid price that the City receives on the date the payment is deposited. Any dispute with respect to a bill for Distribution Tariff Services from the City to a Retailer shall be resolved in accordance with the Load Settlement dispute resolution process.

Failure to receive an invoice does not release a Retailer from the obligation to pay the amount owing for any Retail Access Services provided by the City.

10.8 Collection of Taxes

The City shall collect all franchise fees and sales, excise, or other taxes imposed by governmental authorities with respect to Retail Access Services. The Retailer shall be responsible for identifying and

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requesting any exemption from the collection of any tax by filing appropriate documentation with the City.

10.9 Billing Adjustments

Where the City overcharges or undercharges a Customer as a result of a billing error including, but not limited to, incorrect meter reads or clerical errors by a City representative applying the wrong rate, wrong billing factor, or an incorrect calculation, the City may render an adjusted bill for the amount of the undercharge, without interest, and shall issue a credit to the Retailer for the amount of the overcharge, without interest, in accordance with the following procedures:

- If a Retailer is found to have been overcharged due to a billing error, the City will calculate the amount of the overcharge for credit to the Retailer on the Retailer's next bill following the discovery of the billing error for those months during which a billing error occurred up to a maximum period of 12 months immediately preceding the month in which the billing error is discovered. However, if the period of billing error cannot be determined with reasonable accuracy, the overcharge will be calculated for a period of 3 months immediately preceding the month in which the billing error is discovered. Overpayments in excess of \$1,000.00 shall be refunded to the Retailer upon written request.
- If a Retailer is found to have been undercharged due to billing error, the City may bill the Retailer for those months during which a billing error occurred up to a maximum period of 12 months immediately preceding the month in which the billing error is discovered. However, if the period of billing error cannot be determined with reasonable accuracy, the undercharge will be calculated for a period of 3 months immediately preceding the month in which the billing error is discovered. Payment from the Retailer will be due in accordance with Section 10.7 of these Terms and Conditions.

11.0 ELIGIBILITY OF RETAILER

11.1 Eligibility of Retailer

Before the City will provide Retail Access Services to a Retailer pursuant to these Terms and Conditions, a Retailer must meet and maintain the following eligibility requirements.

11.1.1 Licensing

The Retailer must be duly licensed and registered with the Alberta Department of Resource Development to sell or provide Energy directly to Customers.

11.1.2 Prudential Requirements

The City's determination of the prudential requirements necessary for each Retailer to satisfy the City that the Retailer is capable of meeting its obligations is final and is not subject to dispute or negotiation and is not subject to the Dispute Resolution process set out in Section 16. All costs associated with obtaining financial security and meeting prudential requirements are the responsibility of the Retailer.

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The Retailer must provide assurance to the City that it is capable of meeting its payment obligations under the Distribution Tariff, by either satisfying the credit or security requirements as follows:

Credit Requirements

Retailers are required to provide copies of their audited financial statements and credit rating reports in addition to any other information which may reasonably be deemed necessary by the City to establish and monitor the Retailer's ability to pay and/or creditworthiness.

Security Requirements

Retailers may obtain Retail Access Services by providing and maintaining security in one of the following ways:

- Obtaining a guarantee of payment from a guarantor who satisfies the City's credit requirements;
- Providing an irrevocable letter of credit from a Canadian chartered bank or equivalent lending institution satisfactory to the City; or
- Providing a cash deposit.

The amount of security required by the City will be determined by the City but will not exceed the value of the City services that will accrue prior to the Retailer being replaced by the Supplier of Last Resort due to non-payment. This value will be based on the estimated value of City services for a period of up to 75 days.

The City may increase or decrease the amount of security required from the Retailer as the City changes its assessment of the Retailer's ability to meet its payment obligation or as the amount of service required by the Retailer changes.

If there is a decrease in the amount of security required, the City will accept a substitution Letter of Credit or Guarantee for the lower amount or return the surplus cash deposit upon request.

11.1.3 Agreement between the City and Retailer

The Retailer must have duly entered into a Retail Access Services Agreement with the City and the Retail Access Services Agreement must be in full force and effect.

11.1.4 Communications Capabilities

The Retailer must be equipped with the communications capabilities necessary to comply with the standards that are set out in the Business Guidelines for Retail Access which may, from time to time, be modified. The Retailer must have in place all required information technology systems that will enable it to send data to and to receive data from the City, in order to satisfy its obligations under these Terms and Conditions and all other relevant agreements.

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The Retailer must have completed testing of its ability to execute transactions described in the Business Guidelines for Retail Access to the satisfaction of the City. The testing will be in accordance with the communication requirements of the Business Guidelines for Retail Access.

Prior to the City providing Retail Access Services to the Retailer, the Retailer shall provide to the City a list of representatives of the Retailer authorized to communicate with the City in relation to Retail Access Services, including enrollment of Customers for Distribution Access Services. The City will rely and act on communications received from the representatives of the Retailer appearing on the list provided by the Retailer until such time as the Retailer revokes such authorization through written notification to the City.

11.1.5 Requirements for Exchange of Energy

The Retailer must be entitled to exchange Energy through the Power Pool.

11.2 Confidentiality

The City shall keep all Retailer specific credit and security information confidential unless the City has the Retailer's written authorization and consent to disclose such information to third parties, provided however that such information shall not be subject to such confidentiality where such information is:

- (a) Generally available to the electric industry or the public at the time of disclosure;
- (b) Subsequent to receipt by the City, becomes generally available to the electrical industry or the public as a result of a disclosure by the Retailer or any Person authorized by the Retailer;
- (c) The City establishes, by satisfactory evidence, was available to the City on a non-confidential basis prior to its disclosure to the City;
- (d) Subsequent to receipt by the City, the City can establish, by competent evidence becomes available to the City on a non-confidential basis from a source other than the Retailer or an authorized representative of the Retailer, without breach of these Terms and Conditions;
- (e) Must be disclosed by law to a governmental authority where there is no reasonable alternative to such disclosure.

12.0 SUPPLIER OF LAST RESORT

The City has appointed ENMAX Energy Corporation as its Supplier of Last Resort. The Supplier of Last Resort will provide Electricity Services to Customers who are no longer able to receive Electricity Services from their Retailer for any of the following reasons:

- The Retailer has voluntarily ceased to operate in Alberta;
- The Retailer is no longer licensed;
- The arrangements for Retail Access Services between the Retailer and the City have been terminated in accordance with these Terms and Conditions;
- The Retailer is no longer permitted to exchange Energy through the Power Pool;
- The Retailer has given notice to the City that it will no longer be providing Energy to the Customer, or
- For any other reasons which may be specified by the EUA.

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13.0 CONSUMER PROTECTION

13.1 Disclosure

Customers always have the right to access their information held by a Retailer and/or the City. Any Retailer chosen by a Customer should have access to basic information held by the City that is needed to serve the Customer and operate their business efficiently.

The City will ensure third party access to Customer specific information is restricted unless the Customer explicitly agrees to such access, provided however that such information shall not be subject to such confidentiality where such information is:

- (a) Generally available to the electric industry or the public at the time of disclosure;
- (b) Subsequent to receipt by the City, becomes generally available to the electrical industry or the public as a result of a disclosure by the Retailer or any Person authorized by the Retailer;
- (c) The City establishes, by satisfactory evidence, was available to the City on a non-confidential basis prior to its disclosure to the City;
- (d) Subsequent to receipt by the City, the City can establish, by competent evidence becomes available to the City on a non-confidential basis from a source other than the Retailer or an authorized representative of the Retailer, without breach of these Terms and Conditions;
- (e) Must be disclosed by law to a governmental authority where there is no reasonable alternative to such disclosure.

Information may be transferred without consent in the case of legal, regulatory or law enforcement requirements (e.g., transfer of electricity information for drug investigations).

13.2 Errors Discovered by Retailers

When a Retailer discovers that an error has been made in data transmitted, the Retailer shall correct the error immediately.

14.0 DEFAULT

14.1 Event of Default

An Event of Default under these Terms and Conditions, the Retail Access Service Agreement or the Distribution Tariff will occur if either the City or the Retailer ("Defaulting Party") meets any of the following conditions:

- Is the subject of a bankruptcy, insolvency or similar proceeding;
- Makes an assignment for the benefit of its creditors;
- Applies for, seeks consent to, or acquiesces in the appointment of a receiver, custodian, trustee, liquidator or similar official to manage all or a substantial portion of its assets;
- Violates any material code, regulation or statute applicable to the supply of Energy; or

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- Fails to pay the other party ("Non-Defaulting Party") when payment is due, or to satisfy any other material obligation under these Terms and Conditions, the Retail Access Services Agreement or the Distribution Tariff such as fulfilling the creditworthiness requirements as set forth in Section 11.1.2, within the time frames set forth in these Terms and Conditions and fails to remedy the delinquencies within 10 Business Days after receipt of written notice thereof from the Non-Defaulting Party.

14.2 Rights Upon Default

In an event of Default, the Non-Defaulting Party shall be entitled to pursue any and all available legal and equitable remedies and terminate the Retail Access Services Agreement without any liability or responsibility whatsoever except for obligations arising prior to the date of termination, by written notice to the Defaulting Party, subject to any applicable regulatory requirements. The City may access the security posted by a Retailer without prior notice if the Retailer files a petition in bankruptcy (or equivalent, including the filing of an involuntary petition in bankruptcy against the Retailer), becomes a Defaulting Party pursuant to Section 14.1 or for any reason a Retailer ceases to provide services to its Customers under its terms of service.

If the Retailer fails to make payment in accordance with Section 10 of these Terms and Conditions, the City may immediately withhold or suspend the Retailer's service, terminate service, transfer the Retailer's customers to the Supplier of Last Resort and apply any security held by the City before the service coverage period of the security expires. Notwithstanding action provided for in or taken pursuant to the preceding sentence, the City may take credit action against any Retailer with respect to an account on which payment is not made to the City. The City may assess the Retailer for any or all administrative and collection costs relating to the recovery by the City of amounts owed, including but not limited to legal fees, disbursements and costs.

If the Retailer fails to provide or maintain adequate security upon the City's request, the City may immediately withhold or suspend services provided to the Retailer pursuant to the Terms and Conditions.

If a Retailer or person who guarantees the financial obligations of the Retailer, as the case may be, ceases to, in the City's estimation, be creditworthy, the City will demand security and, if not provided, may immediately suspend the provision of further Retail Access Services to the Retailer and its Customers until the City in its sole discretion determines that the Retailer is capable of meeting its payment obligations by either satisfying the credit requirements or providing security.

Any withholding or suspension under Section 14.2 of these Terms and Conditions shall not relieve the Retailer from any obligation to pay any rate, charge or other amount payable which has accrued or is accruing to the City.

15.0 LIABILITY AND INDEMNIFICATION

15.1 Limitation of Liability

Except for direct physical damages, injuries or losses suffered by a Retailer and occurring as a direct result of the negligence of the City or its employees acting within the scope of their employment, none of the City nor its affiliates, directors, officers, agents, contractors, assigns or employees shall be liable

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for any damages, injuries, losses, expenses, liabilities, fees (including legal fees), or costs suffered or incurred by any Retailer or any other person on premises owned, leased or operated by such Retailer arising out of, or in any way connected with, the provision by the City of Retail Access Services or any failure, defect, fluctuation, reduction, disconnection, suspension, curtailment or interruption in the provision of such Retail Access Services, regardless of whether such damages, injuries, losses, expenses, liabilities, fees (including legal fees), or costs arise in contract, tort or otherwise.

Notwithstanding anything to the contrary contained in these Terms and Conditions, the City or its affiliates, directors, officers, agents, contractors, assigns, or employees shall be liable only for direct physical damages. "Direct physical damages" shall not include, any damages, injuries, losses, expenses, liabilities, fees (including legal fees), or costs which are of an indirect, special or consequential nature ("Indirect Damages") regardless of whether they arise in contract, tort or otherwise. Without limiting the generality of the foregoing, Indirect Damages shall include loss of profits, loss of revenue, loss of production, loss of earnings, loss of contract, cost of capital, cost of purchased or replacement capacity or energy, loss of any use of any facilities or property owned, leased or operated by any person and any other indirect, special or consequential damages, injuries, losses, expenses, liabilities, fees (including legal fees), or costs whatsoever.

15.2 Indemnification

The Retailer shall indemnify and hold harmless, and at the option of the City defend, the City and its affiliates, directors, officers, agents, contractors, assigns and employees and each of them (collectively, "Affiliates"), from and against any and all claims, actions, fines, penalties and liabilities in tort, contract, or otherwise (collectively, "Liabilities") brought against the City or any of its Affiliates which arise from, result from or are in connection with any act, omission or failure of the Retailer, including any act, omission or failure of the Retailer arising from, resulting from or in connection with any duty or obligation of the Retailer pursuant to these Terms and Conditions, including the failure of a Retailer to obtain from a Customer any authorization or consent contemplated by these Terms and Conditions, the Retail Access Services Agreement, the Distribution Tariff, or pursuant to any other agreement or arrangement with the City or between the Retailer and any third party.

The Retailer shall waive recourse against the City and its Affiliates arising from, resulting from or in connection with the non-negligent performance of the City and its Affiliates in connection with the performance of its obligations under these Terms and Conditions.

15.3 Force Majeure

If an event or circumstance of Force Majeure occurs that affects the City's ability to provide any Retail Access Services in accordance with these Terms and Conditions, the City's responsibilities, so far as they are affected by the Force Majeure or the consequences thereof, shall be suspended until such Force Majeure or consequences thereof are remedied and for such period thereafter as may reasonably be required to provide those Retail Access Services. Where reasonably practical, the City shall give notice to the Retailer of such Force Majeure.

15.4 Interruption

The City shall have the right without liability to disconnect or otherwise curtail, interrupt or reduce Distribution Access Services to the Retailer's Customers whenever the City reasonably determines, or

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when the City is directed by the System Controller, that such a disconnection, curtailment, interruption or reduction is necessary to facilitate construction, installation, maintenance, repair, replacement or inspection of any of the City's Facilities, to maintain the safety and reliability of the City's Distribution System, or a connecting entity's electrical system, or due to any other reason, including Emergencies, forced outages, potential overloading of the City's Distribution System or Force Majeure. The City will give as much advance notice as is practicable, if any in the event of such disconnection, curtailment, interruption or reduction.

16.0 DISPUTE RESOLUTION

16.1 Resolution by the City and Retailer

Unless otherwise specified herein, any dispute arising between the City and a Retailer in connection with these Terms and Conditions shall be resolved in accordance with this Section 16. The City and the Retailer acting reasonably and in good faith, shall use their best efforts to resolve the dispute as soon as possible in an amicable manner. Either party may provide written notice to the other party of its desire to have the dispute resolved. Within ten (10) days of such notice being provided, the Manager of the Department and the Retailer shall meet to attempt to resolve the dispute.

16.2 Resolution by Arbitration

If any dispute has not been resolved pursuant to Section 16.1 hereof within ten (10) days after notice from the City or the Retailer to the other of its desire to have the dispute resolved, then the dispute shall be resolved pursuant to the procedure set out in Section 16.3.

16.3 Arbitration Procedure

16.3.1 Arbitrators

Whenever any arbitration is permitted or required hereunder to resolve a dispute between the parties, arbitration proceedings shall be commenced by a party desiring arbitration (the "Initiating Party") giving notice to the other party (the "Responding Party") specifying the matter to be arbitrated and requesting an arbitration thereof. The Initiating Party shall within five days thereafter, by written notice to the Responding Party, designate an arbitrator. The Responding Party shall, within five days thereafter, be entitled to appoint an arbitrator by written notice to the Initiating Party, and the two arbitrators so appointed shall thereupon meet and select a third arbitrator (the "Chairman") acceptable to both. If the Responding Party fails to appoint an arbitrator within the time limit aforesaid and deliver notice thereof to the Initiating Party, then the Initiating Party shall be entitled to appoint an arbitrator on behalf of the Responding Party and is hereby appointed the agent of the Responding Party for such purpose. In the event that the two arbitrators so appointed are unable to agree upon the Chairman within 10 days of the appointment of the arbitrator for the Responding Party, then the Initiating Party shall be entitled to make application to the Court pursuant to the *Arbitration Act* (Alberta), as amended from time to time, for selection of the Chairman, and the provisions of the *Arbitration Act* (Alberta) shall govern such selection.

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16.3.2 Failure to Concur

In the event of the failure, refusal or inability of any arbitrator to act, or continue to act, a new arbitrator shall be appointed in his stead, which appointment shall be made in the same manner as herein before provided.

16.3.3 Decision

The resultant arbitration panel shall thereupon proceed to hear the submissions of the parties, and shall render a decision within 30 days after the appointment of the Chairman. The decision of the majority of the arbitration panel (or of the Chairman, if there is no majority decision) shall be deemed to be the decision of the arbitration panel and the decision of such majority of the Chairman, as the case may be, shall be final and binding upon the parties and not subject to appeal. The arbitration panel shall have the authority to assess the costs of the arbitration panel against any one or both of the City and the Retailer provided, however, that the City and the Retailer shall bear its own witness and counsel fees. The arbitrators shall have access to all books and records of the City and the Retailer relating to the matter in dispute and the City and the Retailer will co-operate with the arbitrators and provide all information reasonably requested by them.

16.3.4 Late Decision

If an arbitration decision is not made within the time herein provided, then until it is so made and unless the other party has taken any of the actions referred to in this paragraph, either the City or the Retailer, upon 30 days notice to the other party and to the arbitrators, may: (i) cancel the appointment of the arbitrator previously made and initiate new arbitration proceedings by a new notice to the other party pursuant to this Section 16; or (ii) cancel such arbitration proceedings and proceed in the courts as though this Section 16 did not exist.

16.3.5 Technical Competence

Any arbitrator appointed under the provisions of this Section 16 whether by concurrence of the City and the Retailer, by either party, by the arbitrators, or by a Justice of the Court of Queen's Bench of Alberta shall, in the opinion of the Person or Persons making such appointment, be possessed of such technical or other qualifications as may be reasonably necessary to enable him to properly adjudicate upon the dispute or difference.

16.3.6 Application of the Arbitration Act (Alberta)

Except as herein modified, the provisions of the Arbitration Act (Alberta), as amended, re-enacted or replaced from time to time, shall apply to any arbitration proceeding.

16.3.7 Single Arbitrator

Nothing in these Terms and Conditions shall prevent the parties to the agreement from agreeing upon arbitration by a single arbitrator, whose decision shall be final and binding upon all parties.

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16.3.8 Decisions Binding

A decision of the single arbitrator or the majority of three arbitrators named or appointed shall be final and binding upon each of the parties to the dispute or difference. The City and the Retailer shall abide by the terms of any award rendered without delay.

16.4 Continuity of Service

All performance required under these Terms and Conditions by the City and the Retailer and payment therefore shall continue during the dispute resolution proceedings contemplated by this Section 16, provided that in the case of any such proceedings pertaining to amounts payable under these Terms and Conditions, any payments or reimbursements required as a result of the proceedings shall be effective as of a date to be determined in such proceedings and interest shall be paid thereon by the party required to make the payment or reimbursement on the amount thereof at the rate to be determined in the arbitration proceeding, from the date so determined, until paid.

17.0 MISCELLANEOUS

17.1 Single Retailer for Customer Site

The City will not be required to recognize and deal with more than one Retailer in respect of a Site at any given time. Nothing in these Terms and Conditions prevents a Customer from entering into arrangements with multiple Retailers for a Site, provided that a single Retailer is designated to be the Customer's Retailer for the purposes of these Terms and Conditions.

17.2 Compliance with Applicable Legal Authorities

The City and the Retailer are subject to, and shall comply with, all existing or future applicable federal, provincial and local laws, all existing or future orders or other actions of the System Controller or of governmental authorities having applicable jurisdiction. The City will not violate directly or indirectly, or become a party to a violation of any requirement of the System Controller or any applicable federal, provincial or local statute, regulation, bylaw, rule or order in order to provide service to the Retailer or a Customer of the Retailer. The City's obligation to provide service under these Terms and Conditions is subject to the condition that all requisite governmental and regulatory approvals for the provision of such service will have been obtained and will be maintained in force during such period of service.

17.3 No Assignment

Neither the City nor the Retailer shall assign any of its rights or obligations under these Terms and Conditions or the Retail Access Services Agreement without obtaining (a) any necessary regulatory approval(s); and (b) the prior written consent of the non-assigning party, which consent shall not be unreasonably withheld. No assignment shall relieve the assigning party of any of its obligations under these Terms and Conditions or the Retail Access Services Agreement until such obligations have been assumed by the assignee in writing. Any assignment in violation of this Section shall be void.

Notwithstanding the foregoing, the City may assign any or all of its rights and obligations under these Terms and Conditions and the Retail Access Services Agreement, without the Retailer's consent, to any

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entity succeeding to all or substantially all of the assets of the City, if the assignee agrees, in writing, to be bound by all of the terms and conditions hereof and if any necessary regulatory approvals are obtained.

17.4 No Waiver

The failure of either party to insist on any one or more instances upon strict performance of any provisions of these Terms and Conditions or a Retail Access Services Agreement, or to take advantage of any of its rights hereunder or thereunder, shall not be construed as a waiver of any such provisions or the relinquishment of any such right or any other right hereunder, which shall remain in full force and effect. No term or condition of these Terms and Conditions or a Retail Access Services Agreement shall be deemed to have been waived and no breach excused unless such waiver or consent to excuse is in writing and signed by the party claimed to have waived or consented to the breach.

17.5 Notice

Unless otherwise stated herein, all notices, demands or requests required or permitted under these Terms and Conditions or a Retail Access Services Agreement shall be in writing and shall be personally delivered or delivered by facsimile transmission (with the original transmitted by any of the other aforementioned delivery methods) addressed as follows:

- If to the Retailer, the address and the addressee set out in the Retail Access Services Agreement between the Retailer and the City.
- If to the City,

The City of Red Deer
Electric Light & Power Manager
5581 – 45 Street
Red Deer, Alberta
T4N 1L3

Fax Number: (403) 341-6806

A party may change the address or addressee from time to time by giving written notice of such change to the other party in accordance with this Section. Any notice, demand or request made, given or delivered hereunder by facsimile shall be deemed to be received on the day of transmission if sent during the normal business hours of the recipient, failing which it shall be deemed to be received on the next following Business Day.

17.6 Law

These Terms and Conditions and the Retail Access Services Agreement between the City and the Retailer shall be governed by the laws of the Province of Alberta and the federal laws of Canada applicable in the Province of Alberta, without regard to principles of conflicts of law. Any lawsuit arising in connection with these Terms and Conditions or the Retail Access Services Agreement shall be brought in the courts of the Province of Alberta.