



ASC NOTICE AND REQUEST FOR COMMENT

PROPOSED AMENDMENTS TO THE

ALBERTA SECURITIES COMMISSION

RULES (GENERAL)

August 16, 2024

Introduction

The Alberta Securities Commission (**Commission**) is publishing for a 30-day comment period proposed amendments (**Proposed Amendments**) to the *Alberta Securities Commission Rules (General)* (**ASC Rules General**).

The Proposed Amendments, if adopted, will establish tariff rates in lieu of the current hourly rates applied to the calculation of costs orders by the Commission or the Executive Director (**ED**) following a hearing, under paragraph 20(a) of the ASC Rules General. The text of the Proposed Amendments is attached as Annex A to this Notice and will be available on the Commission's website at: www.albertasecurities.com

Background

Following a hearing, the Commission or the ED may, if satisfied that a person or company (**Respondent**) has contravened Alberta securities laws or acted contrary to the public interest, make an order for the payment of costs, pursuant to section 202(1) of the *Securities Act* (Alberta). When the Commission or ED makes such a costs order, it may include the costs of Commission staff (**Staff**) incurred in an investigation, hearing or both, pursuant to paragraph 20(a) of the ASC Rules General. In particular, paragraph 20(a) provides that costs of Staff to investigate and/or bring a matter forward to hearing, are based on the time expended for purposes of the investigation, the hearing, or both at the applicable hourly rates. The Proposed Amendments would require that, if ordered, the costs awarded under paragraph 20(a) be calculated based upon a tariff rate, rather than an hourly rate.

A costs tariff would provide benefits to both Staff and market participants. A costs tariff will provide more transparency to Respondents, as it will allow them to approximate in advance the potential costs award that they may face following a hearing. Second, it will result in efficiencies for Staff, since the calculation of Staff costs on an hourly basis is labour intensive and Staff resources are limited. Since the majority of cases under investigation do not result in hearings, limited Staff resources are needlessly expended on time-tracking for these cases with no ultimate recouping of costs. Third, the actual collection rates for cost awards are currently low, which further highlights the inefficiency and wasted resources in tracking time on an hourly basis.

Despite the low rate of return, costs orders send an important message to those who contravene securities laws by attributing costs associated with investigating, litigating and adjudicating misconduct to those who contravene securities laws rather than placing the burden on law-abiding market participants. Moving to a tariff rate would reduce inefficiencies in costs awards based on

outdated hourly rates while still allowing for accountability for Respondents and transparency for the market.

Notwithstanding the costs tariff, costs ultimately remain in the discretion of the Commission or the ED to make an award that is reasonable in the circumstances of the case.

Summary of the Proposed Amendments

If the Proposed Amendments are adopted, substantive changes would occur to paragraph 20(a) of the ASC Rules General. As stated above, paragraph 20(a) of the ASC Rules General currently require that costs of Staff involved in an investigation, a hearing or both, are based on the time expended for purposes of the investigation, the hearing, or both at determined hourly rates which no longer allow for accurate costs calculations given the passage of time. If the Proposed Amendments are adopted, costs orders following a finding against a respondent by the Commission or the ED would be calculated based upon a tariff rate, rather than an hourly rate.

Effective Date and Transition

If the comment process does not result in any material changes to the Proposed Amendments, the Commission anticipates that the Proposed Amendments will be effective on October 31, 2024. For clarity, effective October 31, 2024, the costs tariff applies to all assessable items, whether the activity described in the item happened before or after that date.

Notwithstanding the foregoing, in the event sanctions submissions have concluded prior to October 31, 2024 but the sanctions decision has not been rendered by that date; Staff will advise the Commission and the Respondents, in writing, of the amendments to the ASC Rules General, and seek the lesser of the hourly rate and the amount calculated pursuant to the costs tariff.

Request for Comments

We welcome all comments on the Proposed Amendments. Please submit your comments in writing on or before **September 15, 2024**.

Please note that comments received may be made publicly available and a summary may be posted on the Commission website (www.albertasecurities.com). You should not include personal information directly in the comments to be published. It is important that you state on whose behalf you are making the submission.

Please deliver your submission to the following Commission representative:

Jennifer Smith
Senior Legal Counsel
Office of the General Counsel
Alberta Securities Commission
250-5th Street S.W.
Calgary, AB T2P 0R4
jennifer.smith@asc.ca

ANNEX A

AMENDMENTS TO
ALBERTA SECURITIES COMMISSION RULES (GENERAL)

1. *The Alberta Securities Commission Rules (General) are amended by this Instrument.*
2. *Paragraph 20(a) is replaced with the following:*

(a) costs of Commission staff involved in the investigation or the hearing, or both, for each of the items undertaken in Column 1 at the rate prescribed in Column 2, or as otherwise ordered by the Commission or the Executive Director:

Item	Column 1	Column 2
1	Pre-Hearing Conferences and Hearing Management Sessions – for each ½ day	\$500
2	Contested Interim Applications whether heard orally, in writing or both (other than Contested Adjournment Applications)	\$2,000
3	Contested Adjournment Application	\$1,300
4	Uncontested Application	\$500
5	Ex Parte Application	\$500
6	Hearing	
6(1)	For each day or partial day of hearing up to and including hearing day 15 NOTE: In the event that any of the hearing days conclude in a half-day or less, then the amount for that day is to be reduced to \$4,000 regardless of the time scheduled	\$8,000
6(2)	For each day or partial day after hearing day 15 NOTE: In the event that any of the hearing days conclude in a half-day or less, then the amount for that day is to be reduced to \$1,500 regardless of the time scheduled	\$3,000

3. This Rule comes into force on October 31, 2024.