



# ASC NOTICE OF IMPLEMENTATION OF AMENDMENTS TO THE *ALBERTA SECURITIES COMMISSION* *RULES (GENERAL)*

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October 17, 2024

## Introduction

The Alberta Securities Commission (**Commission**) is adopting amendments (**Amendments**) to paragraph 20(a) of the *Alberta Securities Commission Rules (General)* (**ASC Rules General**).

The Amendments 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 Amendments is attached as Annex A to this Notice and will be available on the Commission's website at: [www.albertasecurities.com](http://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. Currently, 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 Amendments 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 provides benefits to both Staff and market participants. A costs tariff provides more transparency to Respondents, as it allows them to approximate in advance the potential costs award that they may face following a hearing. Second, given case loads and the number of matters that ultimately result in the issuance of a costs order, it is more efficient and expedient to utilize a tariff approach as opposed to a time-tracking system.

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 still allows 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 Amendments**

Adoption of the Amendments will result in substantive changes to paragraph 20(a) of the ASC Rules General. As stated above, paragraph 20(a) of the ASC Rules General currently requires 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. Once the Amendments are adopted, costs orders following a finding against a Respondent by the Commission or the ED will be calculated based upon a tariff rate, rather than an hourly rate.

## **Comments**

We published the Amendments in proposed form (**Proposed Amendments**) for comment on August 16, 2024 for a 30-day comment period. We received no comment letters on the Proposed Amendments.

## **Effective Date and Transition**

The 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.

## **Questions**

Questions respecting the adoption and application of the Amendments can be directed to the following Commission Staff:

Ksena Court  
Senior Counsel,  
Litigation  
Alberta Securities Commission  
250-5<sup>th</sup> Street S.W.  
Calgary, AB T2P 0R4  
Ksena.court@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:

<u>Item</u>	<u>Column 1</u>	<u>Column 2</u>
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.