



## INFORMATION REPORT - WORKFLOW

October 28, 2024

### Utility Governance

Prepared by: Natasha Wirtanen, Associate City Solicitor

Department: Legal & Legislative Services

### Workflow

You must complete these approval steps **more than 2 weeks before the Council meeting** where the report is submitted. If the report is not reviewed and approved, it may be moved to another Council Meeting. Only **General Managers' Executive Assistants may submit a report.**

Reviewed and Approved	Yes	No	N/A	Comments
Department Manager	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
General Manager	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

### Meeting Requirements

Presentation (limited to 10 minutes)	Yes	No
Does your report have a presentation?	✓	<input type="checkbox"/>
The presentation will exceed the 10-minute limit.	<input type="checkbox"/>	✓

Comments:

Opening remarks by The City Manager

Verbal presentation by Natasha Wirtanen

Consent Agenda	Yes	No
Should your item be included on the Consent Agenda?	<input type="checkbox"/>	✓

This report has been directed by The City Manager to include a verbal presentation.

### Required External Attendees



None.

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**Internal Meeting Attendees**

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**Additional Notes (optional)**

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### Report Summary

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This report is for information.

On October 1, 2024, Council passed a resolution to adopt the 2025 utilities budget. A matter highlighted within this budget is the review of The City's electric utility governance and business model (the "**Utility Governance Review**"). In anticipation of questions that may arise from this, Administration wanted to prepare a report that:

- summarizes The City's journey in the Utility Governance Review to date;
- provides all public information in one centralized place;
- addresses why some information must remain confidential;
- addresses The City's plans and requirements that must be met before any decision regarding governance changes can be made; and
- sets out next steps and opportunities for public participation.

### Key Messages

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- 1. Changing industry trends and best practices encouraged a review of the electric utility governance and business model.**
- 2. Red Deer owns and operates utility services that function within competitive industries and must keep some information confidential to protect the interests of our community, minimize risk, and protect information provided by third parties.**
- 3. There is a lot of public information on this project and having it all in a centralized place (this report and reddeer.ca) will make it easier to understand what is happening and when opportunities for input will happen.**
- 4. It is a marathon and not a sprint – Council has not made a decision on a model to implement. There are many steps yet to come and opportunities for public engagement and participation.**

## Background

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### The Evolution of an Industry & the Response of the Electric Utility

The City's electrical utility has been in existence as a City department since 1926, and has experienced many changes in the electrical industry:

- In 1995, the Electric Utilities Act introduced deregulation. This legislation established a competitive market for electricity generation eventually resulting in the Alberta Electric System Operator (AESO) and the Market Surveillance Administrator (MSA).
- With deregulation came large, sophisticated utility businesses with significant means who compete with The City for skilled workers, other resources, and who can readily take advantage of an evolving industry. To put it simply, businesses can pay more, offer more, and invest more in opportunities to benefit the interests of their owners.
- The energy landscape has been moving rapidly toward electrification and renewables, and there are a lot of future unknowns. This rapidly advancing industry coupled with increasingly complicated regulations has become much more complex and challenging to keep up with current trends.

Despite the above changes, the management and operation of the electrical utility has not made any substantive changes since 1928, when the utility stopped generating power to focus solely on construction, operation, and maintenance of the distribution grid.

### The Utility Governance Review

To optimize the electric utility and make sure it was being responsive to the current and future electrical industry, Administration initiated the Utility Governance Review in 2021.

This review focused on the electrical utility, but also considered The City's other utility services (water, wastewater, and waste management). The goal was to review the current utility governance and business models, to see if The City was keeping pace with industry trends and best practices, and to identify potential options to modernize how we manage our utilities.

Through this review three main options were identified:

- **Department +** - Maintain the electric utility as a City department but embark on major structural and process improvements such as improving asset management, operations, work and resource management, customer insights, leadership, and strategy.
- **Municipally Controlled Corporation ("MCC")** - the electric utility is legally separated from The City and operated as a municipally controlled corporation following the procedures outlined in the Municipal Government Act (the "**MGA**").
- **Divest** - The electric utility assets are sold for either a lump sum, ongoing payment, or a mix of both.

No decisions, other than requests for more information, have been made by Council at this time. A summary of key milestones and next steps are provided later in this report, including when Council will make a decision and opportunities for public involvement and input.

## **Why is Some of the Utility Governance Review Happening in Closed Council?**

Transparency and accountability in decision-making is a core value and focus of The City, and the Utility Governance Review has generated information that has been shared with the public as Council approved next steps, and as the process permitted. But often people wonder why an organization that says it is focused on transparency has closed meetings.

While the default is to have open Council meetings, there are times where we cannot publicly disclose information as it may either harm The City or a third party. Where there is legislative authority to do so, Council may discuss such confidential topics in a closed meeting.

The primary reason that something is confidential or in a closed meeting is that it falls into an exception to disclosure under the *Freedom of Information and Protection of Privacy Act* (the “**FOIP Act**”). The following provides a high-level explanation of the type of the information that The City and Council has kept confidential, and continues to need to keep confidential, during the Utility Governance Project:

- **The value of the electric utility:** Deloitte LLP did an analysis of the current electric utility (and other City utilities) to determine their value. This valuation is an important factor for Council to know, as one option they have now and in the future is the divestiture of the utility. Under s.25 of FOIP Act, information that could result in financial loss to The City, prejudice the competitive position of The City, or interfere with contractual or other negotiations of The City may be kept confidential.
- **Advice on specific risks:** Public disclosure of confidential advice associated with each option could expose The City to financial or reputational risk. Under s.27 of the FOIP Act, information subject to legal privilege may be kept confidential. Under s.24 of the FOIP Act, information consisting of advice from officials, proposals, recommendations, analysis, or policy options developed by The City may be kept confidential.
- **Information provided by third parties:** Research done by, or for, The City involved discussions with other municipalities, municipally controlled corporations, and utility companies in Alberta and across Canada. Before releasing third party business information publicly, The City must evaluate whether such a decision could harm the third party. Under s.16 of the FOIP Act, information that would reveal trade secrets or the commercial, financial, or technical information of a third party must be kept confidential. Under s.25 of the FOIP Act, information that may harm the economic interests of other Albertan municipalities may be kept confidential.

The City recognizes the gravity of the decision to be made by Council on the future of the electric utility, and has tailored its approach to strike a balance between information that needs to be kept confidential and information that can be provided to the public.

## **Milestones in the Utility Governance Review**

Administration embarked on a review of the electric utility in 2021. This review surfaced a need to examine the governance and business model of the electric utility to see if it was meeting the demands of the increasing complex industry, keeping up with the best practices of industry peers, meeting the needs of its customers, and to identify areas for improvement. The intent was to provide the information to Council, who could then direct Administration to explore the options and solutions that the review produced.

The major milestones that have already happened in The City’s Utility Governance Review are listed in **Schedule “A”**.

## **Has Council Already Decided that the Electric Utility will be an MCC?**

The Utility Governance Project is a significant project that is not completed. At this point, Council has not made any decisions on what the future will look like for the electric utility. If Council wants to establish an MCC, that decision cannot be made without a public hearing.

The next steps in this process are:

- 1. Hire a consultant:** An RFQ process is currently open, and it will lead into a competitive RFP process. The consultant will conduct engagement sessions with the public and stakeholders and prepare a business plan (see next step), and address transition planning.
- 2. Consultant develops a business plan:** Legislation requires a business plan to be prepared, and the plan must include various items such as costs, cash flow projections, the impact of the MCC on The City's financial viability, and a market impact analysis if municipal control of the MCC would result in competition with similar services provided by the private sector.
- 3. Disclosure of information:** Legislation requires that The City must disclose and make information available to the public for at least 30 days prior to the public hearing. The information that must be disclosed includes the projected rate structure and the market analysis that is in the business plan.
- 4. Provide the public with notice of the public hearing:** The City must provide notice by publishing an advertisement at least once a week for two consecutive weeks in the Advocate. The notice must contain a statement of the general purpose of the public hearing, the address where documents can be inspected, an outline of the procedure to file a petition and the date, time and place where the public hearing will be held.
- 5. Allow for a petition period:** After the notice has been advertised, electors have 60 days to submit a petition for a vote of the electors to determine whether the resolution to establish an MCC should be passed. If a petition is sufficient, Council must either not proceed with the resolution or submit the resolution to a vote of the electors within 90 days.
- 6. Hold a public hearing:** The City must hold a public hearing so that the public, including our residents, our business community, and our other community partners can have their voices heard on this important matter.
- 7. Pass a resolution:** The resolution must authorize The City to establish and control the MCC. This resolution can only be passed if Council is satisfied that the MCC will fulfill a municipal purpose, will provide a service or benefit to residents of Red Deer, and that the profits and dividends of the MCC will provide a direct benefit to the residents of Red Deer.

## **Schedule “A” Milestones**

### **October 2021 – January 2023**

- On October 29, 2021, a consultant was hired to provide an initial scoping study of the key points of consideration of a utility governance and business model review.
- On January 12, 2023, after a competitive Request for Proposals (RFP) process, Deloitte LLP was hired to do the utility governance and business model review.

### **March 2023**

- On March 6, 2023, Council received information in a closed Council meeting on the Utility Governance Review. No resolutions were passed at the meeting of Council on this matter.

### **July 2023**

- On July 10, 2023, Council received information on the Utility Governance Review at a closed meeting of Council.

### **November 2023**

- On November 14, 2023, Council received information on the Utility Governance Review in both a closed Council meeting and an open meeting of Council.
- At the open meeting, Council passed a resolution to approve the amended Electric Utility Governance Policy and Utility Governance Policy and to repeal some outdated policies.

### **April 2024**

- On April 15, 2024, Council received information on the Utility Governance Review in a closed meeting of Council.
- At the open meeting, Council passed resolutions on the Utility Governance Review, postponing the Utility Governance matter to the May 13, 2024 meeting of Council and directing Administration to update absent Councillors on the matter before that meeting.

### **May 2024**

- On May 13, 2024, Council received information on the Utility Governance Review in a closed meeting.
- At the open meeting, Council passed a resolution directing Administration to bring back an administrative recommendation for Council’s consideration including what it would take to prepare an implementation strategy to modernize The City’s utility governance model(s) including risks, estimated costs and timeline, by end of Q3, 2024.

### **July 2024**

- On July 22, 2024, Council received information on the Utility Governance Review at an open meeting of Council.
- At the open meeting, Council passed a resolution requesting more information on what an MCC would look like, and what a transition from a City department to an MCC would look like.

### **September 2024**

- On September 13, 2024, The City published a news release about the Utility Governance Review summarizing the Utility Governance Review matter that will be heard at Council’s open meeting on September 16, 2024.

- On September 16, 2024, Council received information on the Utility Governance Review at an open meeting of Council.
- At the open meeting, Council directed Administration to include the costs of investigating what an MCC would look like for The City in the 2025 budget.

**October 2024**

- On October 1, 2024, Council was presented with the 2025 utility budget at an open meeting of Council. The 2025 utility budget included, and highlighted, the Utility Governance Review as a budget item.
- At that meeting, Council approved the operating and capital budgets for all utilities, and the Utility 10-year Capital Plan in principle.

Administration is in the process of ensuring that all milestone information is available on The City's website at [reddeer.ca/UtilitiesOptions](http://reddeer.ca/UtilitiesOptions)