

Ministre des Affaires indiennes et  
du Nord canadien et interlocuteur fédéral  
auprès des Métis et des Indiens non inscrits



Minister of Indian Affairs and  
Northern Development and Federal Interlocutor  
for Métis and Non-Status Indians

Ottawa, Canada K1A 0H4

I, the Minister of Aboriginal Affairs and Northern Development, HEREBY  
APPROVE, pursuant to section 83 of the *Indian Act*, the following by-law  
made by the Miawpukek First Nation, in the Province of Newfoundland  
and Labrador, at a meeting held on the 16<sup>th</sup> day of September, 2011.

- **Miawpukek Utilities Taxation By-law No. 01-2011**

A handwritten signature in blue ink, appearing to be 'J. Manly'.

Dated at Ottawa, Ontario, this 20<sup>th</sup> day of December 2011.

**MIAWPUKEK FIRST NATION**

**BYLAW NO. 01-2011**

**Miawpukek Utilities Taxation By-Law**

**WHEREAS** pursuant to section 83 of the *Indian Act*, a band may, subject to the approval of the Minister of Indian Affairs and Northern Development, make bylaws for taxation for local purposes of land, or interests in land, in the reserve including rights to occupy, possess or use land in the reserve;

**AND WHEREAS** it is the practice in the Province of Newfoundland and Labrador for utilities companies to pay a tax upon a percentage of the gross receipts within a local jurisdiction;

**BE IT THEREFORE RESOLVED**, that the council of the Miawpukek First Nation adopt the following bylaw in an express exercise of its rights under section 83 of the *Indian Act*.

**SHORT TITLE**

1. This bylaw may be cited as the Utilities Companies Taxation Bylaw.

**DEFINITIONS**

2. In this bylaw,  
Band means the Miawpukek First Nation;  
Council of the band means the council of the Miawpukek First Nation;  
Customer means a person who uses or purchases any kind of service from a utilities company as defined under the Taxation of Utilities and Cable Television Companies Act SNL c. T-0.1;  
Gross Receipts means the gross revenue derived from the sale of electric power service for all purposes and not reduced by a fuel adjustment or similar direct expenses recovery except gross revenue derived from sale of that service to the Newfoundland Light and Power Co. Limited and its successors and assigns;  
Person includes a corporation, partnership, agent or trustee, their heirs, executors, administrators or legal representatives;  
Reserve means the reserve(s) of the band as defined in the *Indian Act*, section 2(1), and special reserve(s) pursuant to section 36;  
Surveyor of Taxes@ means the person appointed by the Council of the Band as the Surveyor of Taxes pursuant to this bylaw;

Utility company<sup>c</sup> has the same meaning as those defined in sections 2.(h) (ii), (ii.1) and (iii) of the *Taxation of Utilities and Cable Television Companies Act* SNL 1992 c. T-0 located on the reserve.

### EXEMPTIONS

3. The property or interest of a utility company wholly owned by the band is exempt from taxation.

### ASSESSMENT AND TAXATION

4. (1) The on-reserve property interests of a utility company shall be assessed on the basis of the gross receipts of that company from the reserve.  
(2) Every utility company owning, controlling or operating a utility system or line on the reserve, shall provide the Surveyor of Taxes with a detailed statement by March 1st in each year, showing the gross receipts of the company from the reserve for the previous year ending on December 31st.  
(3) The on-reserve property interests of a utility company assessed pursuant to section 4(1) of this bylaw are taxable at the rate equivalent to that imposed under provincial legislation in the province Newfoundland and Labrador.  
(4) Taxes payable under this bylaw are a debt due to the Miawpukek First Nation by the utility company.  
(5) The gross receipts tax provided for in this bylaw shall be in lieu of all other tax which may be imposed on the utility company's interest on the reserve.

### ADMINISTRATION

5. (1) The council of the band shall by resolution appoint a Surveyor of Taxes.  
(2) The Surveyor of Taxes shall be responsible for the administration and implementation of the provisions of this bylaw.  
(3) The Surveyor of Taxes shall prepare a report to the council of the band on or before April 1st in each year. The report shall include:
  - (a) A summary of the statements made under section 4(2);
  - (b) The amount of tax to be levied against each utility company pursuant to section 4(3) for the current year; and
  - (c) The recommendations of the Surveyor of Taxes with respect to the administration of this bylaw.
- (4) Upon approval by the council of the band of the report made pursuant to section 5(3), the Surveyor of Taxes shall forthwith issue a



Tax Notice to the utility companies owning, controlling or operating a utility system on the reserve.

- (5) Taxes are due and payable twenty-one (21) days after the Tax Notice is posted.
- (6) In addition to and separate from any penalty or enforcement that maybe imposed under this bylaw or any other applicable legislation, interest shall run on all taxes that are due and payable at the rate of 1.25% interest per month.

#### **TAX COLLECTION**

6. (1) If the taxes imposed under this bylaw remain unpaid after December 31st of the year in which they are levied, the council of the band may bring an action in a court of competent jurisdiction to collect the debt.
- (2) Taxes due and payable are a special lien and encumbrance on the reserve interests of a utility company.

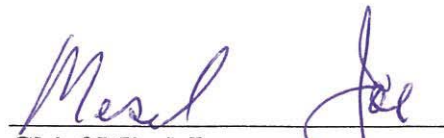
#### **IMPOSITION PROVISION**

7. (1) The Surveyor of Taxes shall notify, forthwith, each telephone company owning, controlling or operating a utility company or system on the reserve that this bylaw is in effect, by registered mail.
- (2) Every utility company owning, controlling or operating a utility system on the reserve shall commence tracking gross receipts from the reserve, for the purpose of preparing the report required under section 4(1), sixty (60) days after the notice under section 7(1) is mailed until December 31st of that year.
- (3) For the first year that a tax is imposed under this bylaw, the tax shall be 2.5 percent (%) of the gross receipts of each utility company pursuant to section 7(2).


#### **APPEALS**

8. An appeal, by a utility company or the council of the band, of the basis upon which the calculation of a gross receipt was made, pursuant to section 4(2), or an appeal of the amount or tax levied pursuant to sections 4(3), shall be made by way of action in a court of competent jurisdiction.

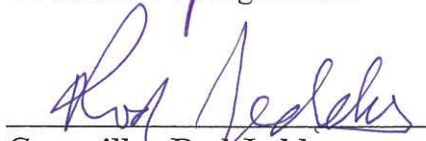
This by-law is hereby enacted by a council at a duly convened council meeting on this 16 day of September, 2011.

  
Chief Misel Joe

  
Councillor Shayne McDonald

  
Councillor Aubrey Joe

  
Councillor Craig Benoit

  
Councillor Rod Jeddore

  
Councillor Harvey Drew

  
Councillor Mardina Joe