

No. 54

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5th Session, 13th Legislature, Alberta  
7 Elizabeth II, 1959

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## **BILL 54**

A Bill to amend The Public Utilities Act

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HON. MR. MANNING

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## Explanatory Note

**2.** These sections authorized the appointment of part time special assistance for the Board, and the appointment of employees of the Board. The provisions are being widened to make it possible for the Board to obtain additional technical assistance on a full-time as well as part time basis. Sections 6 and 7 presently read as follows:

"6. Upon the recommendation of the Board, the Lieutenant Governor in Council may from time to time appoint one or more experts, or persons having technical or special knowledge of the matter in question, to inquire into and report to the Board and to assist the Board in any capacity in respect of any matter before it.

"7. Subject to the provisions of The Public Service Act, the Board may with the approval of the Lieutenant Governor in Council appoint or employ a secretary and such other officers, clerks or servants as it deems necessary, and any person so appointed or employed shall receive such remuneration as shall be determined by the Lieutenant Governor in Council.

**3.** This section now begins "The secretary shall" and then prescribes duties. As the reference to the appointment of a secretary to the Board was removed from the new sections 6 and 7, the authority for the appointment of that officer is inserted here.

**4.** Section 12 is being broadened by this amendment. It presently reads as follows:

"12. For the purpose of any inquiry or examination conducted by it or in the performance of any of the other duties assigned to it by this Act or by the Lieutenant Governor in Council, the Board may, with the consent of the Minister in charge of any department of the Government, avail itself of the services of any officer or other employee of such department."

# BILL

No. 54 of 1959

An Act to amend The Public Utilities Act

(Assented to \_\_\_\_\_, 1959)

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

**1.** *The Public Utilities Act*, being chapter 267 of the Revised Statutes, is hereby amended.

**2.** Sections 6 and 7 are struck out and the following substituted:

**6.** Subject to the approval of the Lieutenant Governor in Council, the Board may employ the services of such engineers, accountants, legal counsel and technical and professional persons and such other officers, clerks or employees as the Board deems necessary, and the Board may prescribe the duties, conditions of employment and remuneration of all persons employed by it.

**7.** (1) Subject to the approval of the Lieutenant Governor in Council the Board may from time to time appoint one or more experts or persons having special technical or other knowledge to inquire into and report to the Board in respect of any matter before the Board or in respect of which the Board deems it necessary to have information for the proper carrying out of its duties under this Act.

(2) A person appointed by the Board pursuant to this section shall be paid such remuneration as may be prescribed by the Lieutenant Governor in Council.

**3.** Section 8 is amended by striking out the words "The secretary shall" and by substituting the words "Subject to the approval of the Lieutenant Governor in Council, the Board shall appoint a secretary who shall".

**4.** Section 12 is struck out and the following is substituted:

**12.** (1) For the purposes of carrying out the duties and exercising the powers imposed or conferred upon it by or pursuant to this Act, the Board may avail itself of the services of any officer or other employee of any board, commission or department of the Province.

**5.** This new section will expressly prohibit the Board from making an order that would permit a rate to the consumers being increased automatically without another Board order.

**6.** The new section 66, subsection (1) is the present section 66, clause (a); while section 66, subsection (2) is, in part, the present section 66, clause (b) extended to apply to "proprietors" as well as municipalities, departments and boards. Subsection (3) is new. The present section 66, clauses (a) and (b) read as follows:

- "66. The Board may
- (a) investigate, upon its own initiative or upon complaint in writing, any matter concerning any public utility,
  - (b) from time to time appraise and value the property of any public utility whenever in the judgment of the Board it is necessary to do so for the purpose of carrying out any of the provisions of this Act, and in making such valuation the Board may have access to and use any books, documents or records in the possession of any department or board of the Province or any municipality thereof,".

Section 66a, clause (a) — Present section 66, clause (c) revised, which presently reads as follows:

- "66. The Board may
- (c) require every public utility to file with it complete schedules of every classification employed and of every individual or joint rate, toll, fare or charge made, charged or enacted by it for any product supplied or service rendered within this Province as specified in such requirement,"

Section 66a, clause (b): Present section 67, clause (d), subclause (ii) and 67(d)(i) omitted. Section 67(d)(i) and (ii) read as follows:

- "67. The Board either upon its own initiative or upon complaint in writing, may by order in writing, which shall be made after giving notice to and hearing the parties interested,
- (d) require every proprietor of a public utility
    - (i) to comply with the laws of this Province and any municipal by-law affecting the public utility, and to conform to the duties imposed thereby or to the provisions of its own charter or of any agreement with any municipality or other proprietor,
    - (ii) to furnish safe, adequate and proper service and to keep and maintain its property and equipment in such condition as to enable it to do so,"

Section 66a, clause (c)—In part present section 67, clause (d), subclause (iv) but power to prescribe uniform system of accounting added for all utilities and the provision made generally applicable. Subclause (iv) presently reads as follows: (See note to section 66a, clause (b) for introductory words.)

- "(iv) to keep its books, records and accounts so as to afford an intelligent understanding of the conduct of its business, and to that end the Board may require all proprietors of public utilities of the same class to adopt a uniform system of accounting, which system may be prescribed by the Board,"

(2) Each officer or employee of any board, commission or department of the Province shall give to the Board such service, assistance and information as he is able to give and the Board requires, subject to the approval of the Minister in charge of the administration of the department in which the officer or employee is employed.

5. The following section is added immediately after section 42:

**42a.** In fixing just and reasonable rates, tolls or charges or schedules thereof, under Part II, to be imposed thereafter by the proprietor of a public utility, the Board shall not fix any rate, toll or charge or schedules thereof in such a manner that the rate to the consumers or any class of consumers may be increased from year to year or other period without a further application to and order of the Board thereon.

6. Section 66 is struck out and the following sections substituted:

**66.** (1) The Board may, upon its own initiative or upon complaint in writing, investigate any matter concerning a public utility.

(2) When in the opinion of the Board it is necessary to investigate a public utility or the affairs of the proprietor thereof, the Board shall have access to and may use any books, documents or records in the possession of any proprietor or municipality or under the control of a board, commission or department of the Province.

(3) Where any person directly or indirectly controls the business of a proprietor within Alberta, that person and any company controlled by that person shall give the Board or its agent access to any of the books, documents and records that relate to the business of the proprietor or shall furnish such information in respect thereof as may be required by the Board.

**66a.** A proprietor shall

- (a) file with the Board complete schedules of every classification employed and of every individual or joint rate, toll, fare or charge made, charged or enacted by it for any product supplied or service rendered within Alberta, as may be prescribed by the Board,
- (b) furnish safe, adequate and proper service and keep and maintain its property and equipment in such condition as to enable it to do so,
- (c) keep its books, records and accounts so as to afford an intelligent understanding of the conduct of its business and in accord with such uniform system of accounting as the Board may prescribe by regulations,

Section 66a, clause (d)—A revision of present section 67, clause (d), subclause (v) but made generally applicable.

Section 66a, clause (e)—This requirement is essentially new, but the principle, extended and made generally applicable to all utilities, is derived from present section 67, clause (d), subclause (vi), which is quoted in note to next following clause of this Bill.

7. (b) This provision is new though the principle is derived from present section 67, clause (d), subclause (vi) for which see following note.

(c) Present section 67, clause (d), subclauses (iv) and (viii). Except for these two provisions the matter of section 67, clause (d), is now elsewhere provided or omitted as unnecessary. That section reads as follows:

"67. The Board, either upon its own initiative or upon complaint in writing, may by order in writing, which shall be made after giving notice to and hearing the parties interested,

(d) require every proprietor of a public utility

- .....
- .....
- (iii) to establish, construct, maintain and operate any reasonable extension of its existing facilities when in the judgment of the Board such extension is reasonable and practicable and will furnish sufficient business to justify its construction and maintenance, and when the financial condition of the proprietor of the utility reasonably warrants the original expenditure required in making and operating the extension,
- (iv) to keep its books, records and accounts so as to afford an intelligent understanding of the conduct of its business, and to that end the Board may require all proprietors of public utilities of the same class to adopt a uniform system of accounting, which system may be prescribed by the Board,
- (v) to furnish periodically, and whenever the Board so requires, a detailed report of finances and operations, in such form and containing such matters and verified in such manner as the Board may from time to time by order prescribe,
- (vi) to carry, whenever in the judgment of the Board it can reasonably be required, for the protection of stockholders, bondholders, debenture holders or creditors, a proper and adequate depreciation account in accordance with such rules, regulations and forms of account as the Board may prescribe, and the Board shall from time to time ascertain and determine, and by order in writing after hearing fix, proper and adequate rates of depreciation of the property of each proprietor of a public utility, in accordance with its regulations or classifications, which rates shall be sufficient to provide the amounts required over and above the expense of maintenance to keep such property in a state of efficiency corresponding to the progress of the industry, and each proprietor of a public utility shall make its depreciation accounts conform to the rates so ascertained, determined and fixed, and shall set aside the moneys so provided for out of earnings and carry the same in a depreciation fund, and the income from investments of moneys in such fund shall likewise be carried in such fund, and this fund shall not be expended otherwise than for depreciation, improvements, new constructions, extensions or additions to the property of the proprietor of that public utility,
- (vii) to give such notice to the Board as it may by order require of any and all accidents that occur within this Province upon the property of the proprietor of a public utility or that directly or indirectly arise out of or are connected with its maintenance or operation, and to investigate any such accident, and the Board may make such order or recommendation with respect thereto as in its judgment is just and reasonable, and
- (viii) to supply and deliver gas to such persons, for such purposes, at such rates, prices and charges, and upon such terms and conditions as the Board from time to time directs, fixes or imposes."

(d) New. Subsections (2) and (3) provide a statutory rule for determining a rate base for the purpose of fixing rates, tolls, charges or schedules thereof under the power contained in present section 67, clause (a), (now to be section 67, subsection (1), clause (a)).

- (d) furnish annually, and at such other periodic intervals as the Board may require, a detailed report of finances and operations, in such form and containing such matters and verified in such manner as the Board may require,
- (e) subject to any order of the Board, maintain proper and adequate depreciation, amortization or depletion accounts on a straight line basis or unit of production method or such other basis or method as the Board may direct upon application thereto.

**7. Section 67 is amended**

- (a) by renumbering the present section as subsection (1),
- (b) by adding immediately after clause (a) of the renumbered subsection (1) the following clause:
  - (a1) fix proper and adequate rates and methods of depreciation, amortization or depletion in respect of the property of any proprietor, which shall make its depreciation, amortization or depletion accounts conform to the rates and methods fixed by the Board,
- (c) by striking out clause (d) of the renumbered subsection (1) and by substituting the following:
  - (d) require a proprietor to establish, construct, maintain and operate any reasonable extension of its existing facilities when in the judgment of the Board such extension is reasonable and practical and will furnish sufficient business to justify its construction and maintenance, and when the financial position of the proprietor reasonably warrants the original expenditure required in making and operating the extension,
  - (e) require a proprietor to supply and deliver gas to such persons, for such purposes, at such rates, prices and charges and upon such terms and conditions as the Board from time to time directs, fixes or imposes.
- (d) by adding immediately after the renumbered subsection (1) the following subsections:
  - (2) In fixing just and reasonable rates, tolls or charges, or schedules thereof, to be imposed, observed and followed thereafter by a proprietor, the Board shall determine a rate base for the property of the proprietor that is used or required to be used in his service to the public within Alberta and fix a fair return thereon.
  - (3) In determining a rate base under subsection (2), the Board shall give due consideration

Subsection (4) provides a means for proprietors with "most favoured nation" or "escalator" clauses in their contracts with producers to apply to the Board for a new schedule of rates. (See clause 5 prohibiting automatic increases.)

Subsection (5) relates to the manner in which such schedules could become operative.

Subsection (6) will require that new contracts containing such clauses shall be notified to interested municipalities.

**8. New. Self-explanatory.**



- (a) to the cost of the property when first devoted to public use, to prudent acquisition cost to the proprietor, less depreciation, amortization or depletion in respect of each,
- (b) to necessary working capital, and
- (c) to other material and relevant facts, but evidence of the replacement value or the present value of the property shall not be adduced except for the purpose of showing the effect of inflation over the life of the various components of the property.

(4) For the purpose of fixing the just and reasonable rates that may be charged to consumers of gas by a proprietor who has with a producer a contract whereby provision is made

- (a) for the progressive increase in the price of gas to the proprietor,
- (b) for an increase in the price of gas to the proprietor by reason of changes in any prices received by the proprietor upon resale of the gas, or
- (c) for an increase in the price of gas to the proprietor by reason of the payment of higher prices by any purchaser in any gas producing area,

the Board, upon the application of the proprietor and upon notice by the proprietor to any municipality affected, may receive for filing a new schedule of rates alleged by the proprietor to be occasioned by the rise in the price required to be paid by the proprietor for purchased gas.

(5) The new schedule may be put into effect by the proprietor upon receiving the approval of the Board thereto, unless within sixty days following the filing of the new schedule the Board, either on complaint of a municipality affected or upon its own initiative without complaint, directs an inquiry into the justness and reasonableness of the new schedule of rates.

(6) Where, after the commencement of this subsection, a proprietor of a public utility for the supplying of gas to consumers enters into a contract with a producer whereby provision is made for any of the matters referred to in clauses (a) to (c) of subsection (4), a copy of the contract shall be forthwith filed with the Board and a notice thereof sent to any municipality to or in which the proprietor supplies gas for consumers therein.

**8.** The following section is added immediately after section 67.

**9. Section 72(1) is amended for the purposes of clarification and to make specific references to some cases that may not be clearly provided for. Clauses (d), (e) and (f) are amended merely to change references to the Oil and Gas Conservation Board and the Act establishing that Board. Section 72(1) begins:**

**"72. (1) Notwithstanding the terms of any contract, the Board may, and upon an order of the Lieutenant Governor in Council, shall fix and determine".**

**67a.** (1) The Board shall, at least once in every three years, review the affairs, earnings and accounts of each proprietor in respect of which the Board has previously fixed just and reasonable rates, tolls or charges, or schedules thereof, under section 67.

(2) The Board may from time to time in its discretion review the affairs, earnings and accounts of any proprietor in respect of whose business the Board has not fixed just and reasonable rates, tolls or charges under section 67.

(3) A person or municipality whose interest, in the opinion of the Board, is affected or likely to be affected by the result of a review by the Board of the business of a proprietor is entitled to obtain from the Board the result of the review, including all information in the Board's possession in respect of the earnings of the proprietor.

**9.** Section 72, subsection (1) is amended

- (a) by striking out all the words after the word "contract" and before clause (a) and by substituting the words "the Board upon the application of an interested party or municipality or upon its own motion may, and upon an order of the Lieutenant Governor in Council shall, fix and determine the just and reasonable price or prices to be paid for gas in any or all of the following cases, that is to say:"
- (b) as to clause (d) by striking out the words "Petroleum and Natural" and by substituting the words "Oil and",
- (c) as to clause (e)
  - (i) by striking out the words "Petroleum and Natural" and by substituting the words "Oil and",
  - (ii) by striking out the word "and" at the end of the clause,
- (d) as to clause (f) by striking out the word "Resources",
- (e) by adding immediately after clause (f) the following:
  - (g) the just and reasonable price or prices to be paid for gas sold and delivered at a field gathering point or at a point in or near a field, to which gas from wells in the field is brought for delivery, whether or not it has, in either case, been processed in an absorption plant and whether or not it is sold under a contract containing specifications as to the heating value of the gas or the proportion of any chemically distinct constituent in the gas,

**10.** Section 72(2) is amended as a result of clause 9 of this Bill. Subsection (2) reads:

“(2) Notwithstanding any other provisions of this Act, in fixing and determining the just and reasonable price or prices as provided for in clauses (a) and (b) of subsection (1), the Board is not required or compelled to fix or determine the price or prices for, in respect of, or on the basis of, any individual well or wells, or on the value or cost thereof, or the investment therein, or a rate of return thereon, but may instead fix and determine such price or prices as are applicable generally to all wells in a field, or may fix and determine different prices paid for gas produced from any classifications or groups, and in the fixing and determining of such price or prices the Board may adopt any just and reasonable basis or method of arriving at or computing such price or prices that the Board deems to be applicable or proper having regard to all circumstances and factors involved.”

**11.** Section 78 reads as follows:

“78. A contract or other arrangement made, with respect to the purchase or acquisition of property in gas to be removed from the Province for use or consumption elsewhere than within the Province, between the owner or producer of any gas or the owner or operator of any absorption or gas processing plant and a person who has obtained a permit for the removal of such gas from the Province pursuant to the provisions of The Gas Resources Preservation Act, shall not be changed or varied by the Board, either as to prices or otherwise.”

**12.** Commencement of Act.

(*h*) the just and reasonable price or prices to be paid for any gas sold, upon an order or direction of the Oil and Gas Conservation Board to any community or consumer in the Province or to a person delivering gas in or to such community or consumer.

**10.** Section 72, subsection (2) is amended by striking out the word and letter “and (*b*)” and by substituting the word and letters “(*b*), (*g*) and (*h*)”.

**11.** Section 78 is repealed.

**12.** This Act comes into force on the day upon which it is assented to.

No. 54

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FIFTH SESSION

THIRTEENTH LEGISLATURE

7 ELIZABETH II

1959

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**BILL**

An Act to amend The Public Utilities  
Act

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. MANNING

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