

No. 96

1st Session, 14th Legislature, Alberta
8 Elizabeth II

BILL 96

A Bill respecting Gas Utilities in the Province

HON. MR. MANNING

Explanatory Note

General. This Bill will enact a consolidation and revision of the provisions contained in The Public Utilities Act (R.S.A. 1955, c. 267) relating to the supplying of gas. Substantive changes where they occur are noted. (The references in these notes hereunder are to the present Act, R.S.A. 1955, c. 267.)

2. Definitions.

(a) Section 2 (a).

(b) Section 2 (b).

(c) Section 2 (c) revised.

(d) Section 2 (e) revised.

(e) Section 2 (f).

BILL

No. 96 of 1960

An Act respecting Gas Utilities in the Province

(Assented to _____, 1960)

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

1. This Act may be cited as "*The Gas Utilities Act*".

Definitions

2. In this Act,

- (a) "absorption plant" means any plant for treating or processing gas by absorption or otherwise for the extraction therefrom of natural gasoline or other hydrocarbons;
- (b) "Board" means the Public Utilities Board as constituted pursuant to *The Public Utilities Board Act*;
- (c) "charter" means any special or general legislative Act of the Province or Ordinance of the Northwest Territories by or by virtue of which a corporation is incorporated, and the certificate of incorporation or other document issued by virtue of any such Act or Ordinance, or granting powers to a corporation;
- (d) "gas" means all natural gas both before and after it has been subjected to any treatment or process by absorption, purification, scrubbing or otherwise, and includes all fluid hydrocarbons not defined by clause (g) as oil;
- (e) "gas pipe line" means
 - (i) any pipe or any system or arrangement of pipes wholly within the Province whereby gas is conveyed from any well-head or other place at which it is produced to any other place, or from any place where it is stored, processed or treated to any other place,
 - (ii) includes all property of any kind used for the purpose of, or in connection with, or incidental to the operation of a gas pipe line in the gathering, transporting, handling and delivery of gas, and
 - (iii) without restricting the generality of the foregoing, includes tanks, surface reservoirs, pumps, racks, storage and loading facilities, compressors, compressor stations, pressure

(f) Section 2 (m), subclauses (iv), (vi), (vii) and (viii) combined with present section 53 (3).

(g) Present section 2 (j).

(h) Section 2 (i).

(i) Section 2 (l) in substance and revised.

(j) Section 2 (o).

measuring and controlling equipment and fixtures, flow controlling and measuring equipment and fixtures, metering equipment and fixtures and heating, cooling and dehydrating equipment and fixtures, but

- (iv) does not include any pipe or any system or arrangement of pipes that constitutes a distribution system for the distribution of gas to ultimate consumers;
- (f) "gas utility" means
 - (i) any gas pipe line,
 - (ii) any system, works, plant, equipment or service for the production, gathering, conveying, transmission, transporting, delivery, furnishing or supplying of gas by retail or wholesale, either directly or indirectly, to or for the public or any member of the public, whether an individual or a corporation, other than the transportation, delivery, furnishing or supplying by retail or wholesale, either directly or indirectly, of liquefied petroleum gas by means of tank car, tank wagon, cylinder or vessel,
 - (iii) any scrubbing plant, and
 - (iv) any system, well, works, plant, equipment or service for the production of gas or capable of producing gas and declared by the Oil and Gas Conservation Board to be a public utility;
- (g) "oil" means crude oil and all other hydrocarbons, regardless of gravity, that are or can be recovered in liquid form from a pool through a well by ordinary production methods;
- (h) "municipality" means any city, town, new town, village, county or municipal district;
- (i) "owner of a gas utility" means
 - (i) a person owning, operating, managing or controlling a gas utility and whose business and operations are subject to the legislative authority of the Province, and the lessees, trustees, liquidators thereof or any receivers thereof appointed by any court, but
 - (ii) does not include a municipality that has not voluntarily come under *The Public Utilities Board Act* in the manner provided by that Act;
- (j) "scrubbing plant" means any plant for the purifying, scrubbing or otherwise treating, of gas for the extraction or removal therefrom of hydrogen sulphide or other deleterious substance.

3. Section 22 (1) and (2) revised. Declaration re gas.

4. Section 53 (1) and (2) revised. Application of Act.

5. Section 100 revised. Municipal gas utility.

Application

3. (1) The Board may, upon the application of any person having an interest and subject to such terms and conditions as it may require,

- (a) declare any of the items referred to in subclause (i), (ii) or (iii) of clause (f) of section 2 not to be a gas utility, or
- (b) declare that a provision of any section of this Act or *The Public Utilities Board Act* is not to apply in respect of any gas utility referred to in subclause (i), (ii) or (iii) of clause (f) of section 2 or to an owner of any such gas utility, and for so long as any such declaration remains unrevoked by the Board the provision therein mentioned has no application in respect of the gas utility so designated therein or to the owner of the gas utility as such.

(2) The Board, upon its own initiative or upon the application of a person having an interest, may, after notice and hearing, vary or rescind in whole or in part any order made by the Board pursuant to subsection (1).

4. (1) This Act applies:

- (a) to all gas utilities owned or operated by or under the control of a company or corporation that is subject to the legislative authority of the Province or that has, by virtue of an agreement with a municipality, submitted to the jurisdiction and control of the Board;
- (b) subject to subsection (2), to every person owning or operating a gas utility to which the jurisdiction of the Province extends;
- (c) to all gas utilities owned or operated by or under the control of the Crown, or an agent of the Crown, in right of Alberta.

(2) This Act does not apply to a gas utility owned or operated by a municipality unless the gas utility is brought under this Act by a by-law of the municipality as provided in section 5.

5. (1) A municipality owning or operating any gas utility may, by by-law of the council thereof approved by the Lieutenant Governor in Council, provide that the gas utility shall come under the operation of this Act and be subject to the control and orders of the Board.

(2) Upon the approval of the by-law by the Lieutenant Governor in Council the gas utility owned or operated by the municipality thereafter comes under the operation of this Act and is subject to the control and orders of the Board.

6. Section 72 (1) and (2) revised. **F**ield prices of gas.

PART I**FIELD PRICES OF GAS**

6. (1) Notwithstanding the terms of any contract, 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:

- (a) the just and reasonable price or prices to be paid for gas
 - (i) in its natural state as and when produced from the earth at the gas exit from the separator, where a separator is employed, and in all other cases as and when produced from the well-head either alone or in association or conjunction with other petroleum products or hydrocarbons,
 - (ii) before such gas has been delivered into any gas pipe line,
 - (iii) before such gas has been subjected to treating or processing by absorption or otherwise for the extraction therefrom of natural gasoline or other hydrocarbons, and
 - (iv) before such gas has been purified, scrubbed or otherwise treated for the extraction or removal therefrom of hydrogen sulphide or other deleterious substance,and also the price or prices of gas at any point on the gas pipe line or lines connecting the well-head or the gas exit from the separator, as the case may be, with any absorption plant or scrubbing plant, but the price or prices fixed pursuant to any of the provisions of this clause shall not include any price or value of any component part of the gas to be extracted therefrom and sold before delivery of the gas to a gas utility for distribution to the ultimate consumer;
- (b) the just and reasonable price or prices to be paid for gas that has been gathered and delivered to an absorption plant and after it has been subjected to treating or processing by absorption or otherwise, for the extraction therefrom of natural gasoline or other hydrocarbons;
- (c) the just and reasonable price or prices to be paid for gas after it has been purified, scrubbed or otherwise treated, for the extraction or removal therefrom of hydrogen sulphide or other deleterious substance, including the price to be paid for such purified gas by an owner of a gas utility purchasing the same for distribution to the ultimate consumer or otherwise;

7. Section 72 (3) revised. Proportioning price with respect to gasoline or other hydrocarbon content of gas.

- (d) the just and reasonable price or prices to be paid for gas that, by the terms of an order made by the Oil and Gas Conservation Board, is required to be returned to the underground formation for storage;
- (e) the just and reasonable price or prices to be paid to the owner of gas for gas that, by order of the Oil and Gas Conservation Board, has been retained in the underground formation;
- (f) the just and reasonable price or prices to be paid for all commodities and services that, pursuant to the provisions of *The Oil and Gas Conservation Act*, are required to be fixed by the Board;
- (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 or scrubbing 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;
- (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.

(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), (b), (g) and (h) 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.

7. Notwithstanding the terms of any contract between the owner of gas or the producer of gas and the operator of any absorption plant, the Board may, by order, fix and determine the proportion of the price received by the operator of the absorption plant to be paid by him to the owner or producer of the gas for the gasoline or other hydrocarbon content of the gas, or if the gasoline or other hydrocarbon content is retained by the operator, the equivalent of the proportion of the price.

8. Section 72 (4), (5) and (6). Scrubbing plant prices.

9. Section 72 (8) and (9). Method of determining prices.

8. (1) The Board, after notice to and hearing the interested parties, may by order approve any contract made or proposed to be made by the owner or operator of a scrubbing plant for the sale or disposition of hydrogen sulphide or other components of natural gas extracted in the scrubbing plant.

(2) A contract approved under subsection (1) shall not be changed or varied by the Board except in so far as the change or variation is mutually agreed upon by the parties to the contract and approved by the Board.

(3) Failing agreement between the owner or operator of the scrubbing plant and the persons to whom an accounting should be made, the Board may direct the manner in which and to whom, and at what times, the moneys received by the owner or operator of the scrubbing plant pursuant to the contract approved pursuant to subsection (1) are to be paid or accounted for.

9. (1) When gas produced from any land is, or when gas that may be produced from any land is to be, gathered, treated or processed by the producer of the gas, the Board may, for the purposes of determining or establishing the value of the gas or any of its components as at the time and place of production from the well or on the location of the well, fix and determine

- (a) the just or fair and reasonable costs, charges or deductions, or
- (b) the method, formula or basis to be applied, adopted or followed for ascertaining the just or fair and reasonable costs, charges or deductions,

to be made or to be deducted by the producer for or incidental to the gathering, treating or processing of the gas or any of its components.

(2) An order made pursuant to subsection (1),

- (a) applies and extends to such lands or areas as may be designated therein,
- (b) applies to and is effective and binding upon the producer and all parties to or for whom he is or may be liable to pay or account for the gas or any portion thereof or interest therein, except only in so far as the order is inconsistent with any express contractual obligation of the producer that fixes or establishes
 - (i) specific costs, charges or deductions, or
 - (ii) the specific method, formula or basis for ascertaining the costs, charges or deductions,
 that are to be made or deducted by the producer for or incidental to the gathering, treating or processing of the gas, and
- (c) may be for a fixed or determined period or periods, or be made subject to future review by the Board, as provided in the order, and the order shall not be

10. Section 72 (7) revised and “immunities” added.

11. Section 73. Contracts with owners or producers.

12. Section 74. Variation of contracts.

otherwise changed or varied by the Board except and only in so far as the change or variation is consented to by all of the parties affected thereby.

10. For the purpose of carrying out the provisions of this Part, the Board, in addition to any other powers conferred by this Act or any other Act, may require and compel the attendance of the owner or operator or any officer, agent, or servant of the owner or operator of any absorption plant, and compel the production of documents related in any manner to the operation of any such plant, and, with regard to the attendance of such persons and the production of such documents, the Board has all the like powers, rights, privileges and immunities that are vested in the Supreme Court of Alberta.

11. (1) In lieu of making an order under section 7 the Board may, with the approval of the Lieutenant Governor in Council, designate any area of land in the Province from which gas is produced, and may permit the operator of an absorption plant, or a person, firm or corporation that has been granted a permit pursuant to section 45 of *The Oil and Gas Conservation Act* or approval pursuant to section 38 of that Act, to enter into a contract, with any owner or producer of gas produced from the designated area, to fix the price to be paid by the operator, person, firm or corporation to the owner or producer for the gas.

(2) Any such contract may be for a fixed period and has no effect until it is approved by the Board.

(3) The operator, or the person, firm or corporation referred to in subsection (1), shall enter into similar contracts with each owner or producer of gas within the designated area, if

- (a) the owner or producer is willing to enter into a contract with the operator, or the person, firm or corporation, and
- (b) in the opinion of the Board, the gas belonging to the owner or producer can be processed economically by the operator, or the person, firm or corporation referred to in subsection (1).

(4) The Board may, with the approval of the Lieutenant Governor in Council, withdraw the approval of a contract given pursuant to subsection (2), if the person, firm or corporation referred to in subsection (1) fails to prosecute the construction of the plant and facilities with reasonable diligence.

12. (1) When any such contract has been approved by the Board pursuant to section 11, it shall not be changed or varied by the Board except in so far as the change or variation is mutually agreed upon by the parties to the contract and approved by the Board.

13. Section 75. Absorption plant to purchase gas pro rata.

14. Section 77.

15. Section 57 revised. Investigation re tolls.

(2) If any contract is changed or varied pursuant to subsection (1), the operator shall make a similar change or variation in any similar contract entered into with each owner or producer of gas within the designated area if the owner or producer requests that the change or variation be made, and if it is approved by the Board.

13. When the operator of an absorption plant is unable to process all the gas produced in a designated area by the owners or operators with whom he is required to enter into contracts by subsection (3) of section 11, the operator shall purchase the gas from each owner and producer having a contract approved by the Board on a *pro rata* basis in the proportion that his production bears to the total production in the designated area.

14. A contract or other arrangement made between the owner or producer of any gas or the owner or operator of any absorption or gas processing plant and the distributor of gas or electricity, by wholesale or retail, for the sale or supply of gas by the owner, producer or operator to the distributor, if approved by order of the Board, shall not be changed or varied by the Board, either as to prices or otherwise, except

- (a) when provision for any such change or variation is reserved in, or made a condition of, the approving order, or
- (b) only in so far as the change or variation is mutually agreed upon by the parties to the contract or arrangement.

PART II

REGULATION OF GAS UTILITIES

15. When it is made to appear to the Board, upon the complaint of any owner of a gas utility or of any municipality or person having an interest, present or contingent, in the matter in respect of which the complaint is made, that there is reason to believe that the tolls demanded by an owner of a gas utility exceed what is just and reasonable, having regard to the nature and quality of the service rendered or of the gas supplied, the Board

- (a) may proceed to hold such investigation as it deems fit into all matters relating to the nature and quality of the service or the gas supplied, or to the performance of the service and the tolls or charges demanded therefor,
- (b) may make such order respecting the improvement of the service or gas and as to the tolls or charges demanded, as seems to it to be just and reasonable, and
- (c) may disallow or change, as it thinks reasonable, any such tolls or charges as, in its opinion, are ex-

16. Section 58 (1) revised. Change in rates.

17. Section 59 revised. Use of roadway or watercourse.

18. Section 60 revised. Right of way.

cessive, unjust or unreasonable or unjustly discriminate between different persons or different municipalities, but subject however to such of the provisions of any contract existing between the owner of the gas utility and a municipality at the time the complaint is made as the Board considers fair and reasonable.

16. Where by any contract between an owner of a gas utility and any municipality or person for the supply of any gas by means of the gas utility, any rate, toll or charge is agreed upon either as a fixed or variable rate, toll, or charge, or a maximum or minimum rate, toll or charge, and whether such rate, toll or charge is agreed upon with respect to a present or future supply of gas, then, notwithstanding any other provision of this Act or *The Public Utilities Board Act*, the Board may, upon the application of the owner, municipality, or person and upon it being shown on the hearing of the application that the rate, toll or charge is insufficient, excessive, unjust or unreasonable, change the rate, toll or charge to such other greater or lesser rate, toll or charge, as it deems fair and reasonable.

17. When an owner of a gas utility who has the right to enter a municipality for the purpose of placing therein, with or without the consent of the municipality, pipes or other appliances, upon, along, across, over or under any public road, street, square, watercourse or part thereof, cannot come to an agreement with the municipality as to the use, as aforesaid, of the roadway or the watercourse in question, or as to the terms and conditions of its use, and applies to the Board for permission to use the roadway or watercourse, or to fix the terms and conditions of its use, the Board may permit the use of the roadway or watercourse and prescribe the terms and conditions thereof.

18. When an owner of a gas utility

- (a) is unable to extend his system, line or apparatus from a point where he lawfully does business to another point or points where he is authorized to do business, without placing pipes or other apparatus upon, along, across, over or under some public road, street, square, watercourse or part thereof,
- (b) cannot lawfully so place pipes or other apparatus without the consent of the municipality having control of the public road, street, square, watercourse or part thereof, and
- (c) is unable to come to an agreement with the municipality,

if the owner applies to the Board for permission to use the public road, street, square, watercourse or part thereof, for the purpose of such extension only, and without unduly preventing the use thereof by other persons already lawfully using it, the Board may permit such use, notwith-

19. Section 61 revised. Settling differences.

20. Section 62 revised. Use of highway, etc.

21. Section 64 (1) and (2) revised. General supervision of utility.

22. Section 65 (1) and (2). Receivers, managers, etc.

standing any law or contract granting any other person exclusive rights with respect thereto, but the Board shall prescribe the terms and conditions upon which the owner of the gas utility may use any such public road, street, square or watercourse, or part thereof.

19. (1) In all differences arising between an owner of a gas utility and a municipality with reference to the performance of the terms and conditions mentioned in sections 17 and 18, the Board may change the terms and conditions if, in its opinion, such changes are necessary or desirable.

(2) Upon the complaint of any municipality that an owner of a gas utility doing business in the municipality has failed to extend his services to any part of the municipality, the Board, after hearing the parties and their witnesses, and making such inquiry into the matter as it seems fit, may order the extension of the services and specify the conditions under which the same is to be done, including the cost of all necessary works, which it may apportion between the owner of the gas utility and the municipality in any manner it deems equitable.

20. Subject to the terms of any contract between an owner of a gas utility and any municipality, and of the franchise or rights of the owner, the Board may define or prescribe the terms and conditions upon which an owner of a gas utility will be required or permitted to use, for any of the purposes of the gas utility, any highway or any public bridge or subway constructed or to be constructed by the municipality, or two or more municipalities, and may enforce compliance with such terms and conditions.

21. (1) The Board shall exercise a general supervision over all gas utilities, and the owners thereof, and may make such orders regarding equipment, appliances, extension of works or systems, reporting and other matters, as are necessary for the convenience of the public or for the proper carrying out of any contract, charter or franchise involving the use of public property or rights.

(2) The Board shall conduct all inquiries necessary for the obtaining of complete information as to the manner in which owners of gas utilities comply with the law, or as to any other matter or thing within the jurisdiction of the Board under this Act.

22. (1) The fact that a receiver, manager or other official of any gas utility, or a sequestrator of the property thereof, has been appointed by any court in the Province, or is managing or operating a gas utility under the authority of any such court, does not prevent the exercise by the Board of any jurisdiction conferred by this Act.

(2) Every such receiver, manager or official shall manage and operate the gas utility in accordance with this Act

23. Section 66 (1) to (3) revised. Investigation of gas utility.

24. Section 79 (1) revised. Prohibitions.

and with the orders and directions of the Board, whether general or referring particularly to the gas utility, and every such receiver, manager or official, and every person acting under him, shall obey all orders of the Board within its jurisdiction in respect of the gas utility, and is subject to have them enforced against him by the Board, notwithstanding the fact that the receiver, manager, official or person is appointed by, or acts under the authority of, a court.

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

(2) When in the opinion of the Board it is necessary to investigate a gas utility or the affairs of the owner thereof, the Board shall have access to and may use any books, documents or records with respect to the gas utility and in the possession of any owner of the gas utility 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 an owner of a gas utility 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 owner or shall furnish such information in respect thereof as may be required by the Board.

24. (1) No owner of a gas utility shall

- (a) make, impose or extract any unjust or unreasonable or unjustly discriminatory or unduly preferential individual or joint rate, commutation rate or other special rate, toll, fare, charge or schedule for any gas or service supplied or rendered by it within Alberta,
- (b) adopt or impose any unjust or unreasonable classification in the making of or as the basis of any individual or joint rate, toll, fare, charge or schedule for any gas or service rendered by it within Alberta,
- (c) adopt, maintain or enforce any regulation, practice or measurement that is unjust, unreasonable, unduly preferential, arbitrarily or unjustly discriminatory or otherwise in violation of law, or provide or maintain any service that is unsafe, improper or inadequate, or withhold or refuse any service that can reasonably be demanded and furnished when ordered by the Board,
- (d) make, or give, directly or indirectly, any undue or unreasonable preference or advantage to any person or corporation or to any locality, or subject any particular person or corporation or locality to any prejudice or disadvantage in any respect whatever,

- (e) issue any
 - (i) of its shares or stock, or
 - (ii) bonds or other evidences of indebtedness, payable in more than one year from the date thereof,

unless it has first satisfied the Board that the proposed issue is to be made in accordance with law and obtained the approval of the Board of the purposes of the issue and an order of the Board authorizing the issue,

- (f) capitalize
 - (i) its right to exist as a corporation,
 - (ii) any right, franchise or privilege, or
 - (iii) any contract for consolidation, merger or lease, in excess of the amount actually paid to the Province or any municipality as the consideration therefor, exclusive of any tax or annual charge, or
- (g) without the approval of the Board,
 - (i) sell, lease, mortgage or otherwise dispose of or encumber its property, franchises, privileges or rights, or any part thereof, or
 - (ii) merge or consolidate its property, franchises, privileges or rights, or any part thereof, with that of any other owner of a gas utility or public utility within the meaning of *The Public Utilities Board Act*,

and every sale, lease, mortgage, disposition, encumbrance, merger or consolidation made in contravention of this clause is void and of no effect, but nothing in this clause shall be construed to prevent in any way the sale, lease or other disposition of any of the property of any owner of a gas utility in the ordinary course of his business.

(2) Notwithstanding subsection (1), but subject to clause (g) thereof, the approval, authority, permission or consent of the Board is not required in or with respect to

- (a) the issue of any shares of its capital stock by an owner of a gas utility under the exercise of any optional right of conversion, attaching to any shares, stocks, bonds, debentures, debenture stock or other evidence of indebtedness, the issue of which has previously been approved by the Board,
- (b) a right of entry, sale, disposition or other proceedings for the enforcement of a mortgage or charge created by trust deed or other instrument or security, in the enforcement of, or pursuant to, the security thereby constituted or in the exercise of the rights or remedies thereby granted or otherwise available at law, if such trust deed or other instrument or security was approved or authorized by the Board, or

25. (1) Section 80 revised. Prohibited share transactions.

(2) Section 81 (1) revised.

(3) Section 81 (2) revised.

26. Section 66a revised. Duties of owner.

- (c) the declaration or issuance of a stock dividend by an owner of a gas utility.

25. (1) Unless authorized to do so by an order of the Board, the owner of a gas utility incorporated under the laws of Alberta, in this section referred to as the "Alberta company", shall not sell or make or permit to be made upon its books any transfer of any share or shares of its capital stock

- (a) to any other owner of a gas utility or public utility, within the meaning of *The Public Utilities Board Act*, or

(b) to any other corporation, however incorporated, if the result of the sale or transfer, in itself or in connection with other previous sales or transfers, would be to vest in the other corporation more than one-half of the outstanding capital stock of the Alberta company.

- (2) Every purported

- (a) assignment or transfer, or

- (b) agreement for assignment or transfer,

by or through any person or corporation in contravention of subsection (1) is void and of no effect.

(3) Nothing in subsection (1) shall be construed to prevent the holding of stock lawfully acquired before the first day of July, 1923.

PART III

RATES AND SCHEDULES

26. An owner of a gas utility shall, with respect to the gas utility,

- (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 him for any gas supplied or service rendered within Alberta, as may be prescribed by the Board,
- (b) furnish safe, adequate and proper service and keep and maintain his property and equipment in such condition as to enable him to do so,
- (c) keep his books, records and accounts so as to afford an intelligent understanding of the conduct of his business and in accord with such uniform system of accounting as the Board may prescribe by regulations,
- (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, and

27. Section 67 (1) (a), (a1), (b), (d) and (e) revised. Powers of Board.

28. (1) Section 67 (2) revised. Rate base.

(2) Section 67 (3) revised. Considerations for determining rate base.

- (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.

27. 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,

- (a) fix just and reasonable individual rates, joint rates, tolls or charges or schedules thereof, as well as commutation and other special rates, which shall be imposed, observed and followed thereafter by the owner of the gas utility,
- (b) fix proper and adequate rates and methods of depreciation, amortization or depletion in respect of the property of any owner of a gas utility, who shall make his depreciation, amortization or depletion accounts conform to the rates and methods fixed by the Board,
- (c) fix just and reasonable standards, classifications, regulations, practices, measurements or service which shall be furnished, imposed, observed and followed thereafter by the owner of the gas utility,
- (d) require an owner of a gas utility to establish, construct, maintain and operate any reasonable extension of his 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 owner of the gas utility reasonably warrants the original expenditure required in making and operating the extension, and
- (e) require an owner of a gas utility 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, fixed by the Board,

28. (1) In fixing just and reasonable rates, tolls or charges, or schedules thereof, to be imposed, observed and followed thereafter by an owner of a gas utility, the Board shall determine a rate base for the property of the owner that is used or required to be used in his service to the public within Alberta and fix a fair return thereon.

(2) In determining a rate base under this section, the Board shall give due consideration

- (a) to the cost of the property when first devoted to public use, to prudent acquisition cost to the owner, less depreciation, amortization or depletion in respect of each, and
- (b) to necessary working capital.

(3) Section 67 (4) revised. Fixing fair return.

29. Section 67 (5) and (6) revised. Schedule of rates.

30. Section 67 (7) revised and referred back to the commencement of chapter 73 of the Statutes of Alberta, 1959, An Act to amend The Public Utilities Act.

31. Section 67 (8) revised and related to applications made before the commencement of chapter 73 of 1959, as subsection (8) of section 67 was intended to be declaratory of the powers of the Board.

32. Section 42a revised. Increase in rates.

(3) In fixing the fair return that an owner of a gas utility is entitled to earn on the rate base, the Board shall give due consideration to all such facts as in its opinion are relevant.

29. (1) For the purpose of fixing the just and reasonable rates that may be charged to consumers of gas by an owner of a gas utility who has with a producer of gas a contract whereby provision is made

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

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

(2) The new schedule may be put into effect by the owner of the gas utility 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.

30. Where, after the seventh day of April, 1959, the owner of a gas utility supplying gas to consumers enters into a contract with a producer of gas whereby provision is made for any of the matters referred to in clauses (a) to (c) of subsection (1) of section 29, 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 owner supplies gas for consumers therein.

31. (1) In fixing just and reasonable rates, the Board may give effect to such part of any excess revenues received or losses incurred by an owner of a gas utility after an application has been made to the Board for the fixing of rates as the Board may determine has been due to undue delay in the hearing and determining of the application.

(2) This section applies in respect of applications made before or after the seventh day of April, 1959.

32. In fixing just and reasonable rates, tolls or charges or schedules thereof, under this Part, to be imposed thereafter by the owner of a gas utility, the Board shall not fix

33. Section 67a revised. Review of owner's affairs.

34. Section 68 revised. Increase in rates.

35. Section 83 (1) and (2) revised. New rates.

36. Section 63 revised. Investigations.

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.

33. (1) The Board shall, at least once in every three years, review the affairs, earnings and accounts of each owner of a gas utility in respect of which the Board has previously fixed just and reasonable rates, tolls or charges, or schedules thereof, under section 27.

(2) The Board may from time to time in its discretion review the affairs, earnings and accounts of any owner of a gas utility in respect of whose business the Board has not fixed just and reasonable rates, tolls, or charges under section 27.

(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 an owner of a gas utility 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 owner.

34. In considering and acting upon any application or matter before the Board and involving the question of rates to be charged for service by any owner of a gas utility, the Board shall not make any ruling or direction to raise rates for any such service beyond the amounts that the owner of the gas utility desires to impose.

35. (1) No change in any existing rates, tolls or charges or schedules thereof or any special rates shall be made by any owner of a gas utility, nor shall any new schedule of any such rates, tolls or charges be established, until such changed rates or new rates are approved by the Board.

(2) Upon approval the changed rates or new rates come into force on a date to be fixed by the Board, and the Board may, either upon written complaint or upon its own initiative, hear and determine whether the proposed increases, changes or alterations are just and reasonable.

(3) The burden of proof to show that any such increases, changes or alterations are just and reasonable is upon the owner of the gas utility seeking to make the same.

36. (1) Without in any way affecting the jurisdiction of the Board, other than as expressly provided for herein, the Board may hear any application on behalf of the council of any municipality within which gas is distributed or supplied by a gas utility, may investigate the question of the supply of gas and the cost of producing, conveying, distributing, supplying and selling gas to consumers within the municipality, may investigate any other matter or question in the opinion of the Board incidental to or bearing

37. Section 84 revised. Accounts.

38. Section 76 (1) revised. Gas rates.

upon the main question or matter under investigation, and may make a report thereon to the council of the municipality and the person operating the gas utility.

(2) If the council of any municipality in its application or by any subsequent application makes request therefor, the Board shall, when in its opinion the supply of gas is inadequate for the demand of consumers of gas within the municipality, prescribe reasonable rules and regulations requiring the gas utility conveying gas to, or distributing it within the municipality to augment the supply of gas so conveyed or distributed, when in the judgment of the Board it is practicable to do so.

(3) If any request therefor is made under this section, the Board shall fix and determine a reasonable price or prices at which gas will be sold within the municipality, having regard to the purpose for which the same is used, and shall fix the period during which the said prices are to be in effect, and may also prescribe fair and reasonable rates and charges for producing, conveying, distributing, buying or selling gas, or may establish a fair and equitable division of the proceeds of the sale of gas between the person producing or supplying the gas, and the person distributing or selling it to consumers within the municipality.

(4) For the said purposes the Board may exercise all the powers and rights exercisable by it under this Act or *The Public Utilities Board Act* and in particular but without limiting the generality of the foregoing, the Board may exercise all its powers and rights with respect to the summoning and examination of witnesses, and the production and inspection of documents.

(5) The costs of any such investigation are in the discretion of the Board.

37. Every municipality operating a gas utility shall keep the accounts thereof in the manner prescribed by the Board for the accounting by the owners of similar gas utilities, and shall file with the Board such statements thereof as may be directed by the Board.

PART IV

GAS PIPE LINES

38. The Board, after notice to and hearing the parties interested, may fix the just and reasonable rates, tolls and charges for the gathering, transporting, distributing, handling and delivery of gas or any specified kind thereof by means of any gas pipe line that is or is declared by the Oil and Gas Conservation Board to be a common carrier, or for any service performed by the proprietor of the gas pipe line in relation to the gathering, transporting, distribution, handling or delivery of gas.

39. Section 76 (2) revised. Inquiry and Public Inquiries Act.

40. Section 88 revised. Privileges and franchises.

41. Section 89 revised. Municipal franchises and extra-provincial company.

39. Where the subject matter of any inquiry under *The Public Inquiries Act* has included an inquiry into the operation of any gas pipe line or any matter pertaining thereto, and the commissioners appointed to make the inquiry, recommend by any report made at any time, whether in the course of the inquiry or at the close thereof, that any rates be fixed for the gathering, transporting, distributing, handling or delivery of gas or any specified kind or kinds thereof by means of any gas pipe line, or for any service performed by the proprietor of any gas pipe line in relation to the gathering, transporting, distributing, handling or delivery of any gas, then, upon the rates being approved by order of the Lieutenant Governor in Council, the Board, shall, without any inquiry, make an order fixing the rates for the gathering, transporting, distributing, handling or delivery of gas, or any specified kind thereof, by means of the gas pipe line to which the report relates, at the rates recommended by the report.

PART V

MISCELLANEOUS

(a) Franchises

40. (1) No privilege or franchise granted to any owner of a gas utility by any municipality within Alberta is valid until approved by the Board.

(2) Approval shall be given when, after hearing the parties interested or with the consent of the parties, the Board determines that the privilege or franchise is necessary and proper for the public conveyance and properly conserves the public interests.

(3) The Board may, in so approving, impose such conditions as to construction, equipment, maintenance, service or operation as the public convenience and interests reasonably require.

41. (1) No municipality shall enter into any agreement with, or grant any franchise to, any company, the business and operations of which are not subject to the legislative authority of the Province, for the operation, management or control of any system, works, plant or equipment for the production, transmission, delivery or furnishing of gas, either directly or indirectly, to the municipality, unless there is contained in the agreement or grant a provision whereby the company agrees to submit its business and operations to the control and supervision of the Board in the same manner and to the same extent as if the company were an owner of a gas utility within the meaning of this Act.

42. Section 78a. Prohibition against discontinuing gas supply.

43. Offence. Section 101 revised to make the penalty a matter of summary conviction.

44. Idem. Section 102 revised.

45. Offence. Section 103 revised.

(2) Any such provision shall, before the final entering into of any agreement or the granting of any franchise, be submitted for approval to the Board.

(3) Any agreement entered into between any municipality and any such company as is referred to in this section, and any franchise granted by any municipality to any such company, in contravention of this section, is void and of no effect.

(b) Gas Contracts

42. Notwithstanding the terms of any contract, a person or company furnishing or supplying gas by retail or wholesale either directly or indirectly to or for the public or any member of the public shall not discontinue the furnishing or supplying of the gas by reason of or pursuant to any other contractual obligations in respect of the furnishing or supplying of gas.

(c) Offences

43. An owner of a gas utility who fails to comply with an order of the Board, after it becomes effective, is guilty of an offence and liable on summary conviction to a fine of one hundred dollars a day for every day during which the default continues.

44. A person is guilty of an offence

- (a) who knowingly and wilfully performs, commits or does, or participates in performing, committing or doing any act or thing forbidden or prohibited by this Act,
- (b) who knowingly or wilfully causes, or participates or joins with others in causing, any owner of a gas utility or any person to do, perform or commit, any act or thing forbidden or prohibited by this Act, or
- (c) who advises, solicits, persuades or knowingly and wilfully instructs, directs or orders any officer, agent or employee of any owner of a gas utility or any person to perform, commit or do any act or thing forbidden or prohibited by this Act.

45. A person is guilty of an offence

- (a) who knowingly and wilfully neglects, fails or omits to do or perform any act or thing required to be done by this Act,
- (b) who knowingly and wilfully causes or joins or participates with others in causing any owner of a gas utility or any person to neglect, fail or omit to do or perform any act or thing required to be done by this Act, or
- (c) who advises, solicits or persuades, or knowingly or wilfully instructs, directs or orders any agent or

46. Offence. Section 104 revised.

47. Penalty. Section 105 revised.

48. Saving clause. Section 106.

49. Municipality may intervene. Section 26 revised.

50. General powers. New.

51. Application of Public Utilities Board Act to this Act. New.

employee of any owner of a gas utility or any person to neglect, fail or omit to do any act or thing required to be done by this Act.

46. Any owner of a gas utility or any person who performs, commits, or does any act or thing prohibited or forbidden by this Act, or who neglects, fails or omits to do or perform any act or thing required by this Act to be done or performed by him, is guilty of an offence.

47. Every person who is guilty of an offence under this Act is, in addition to all other penalties, liable on summary conviction to a fine of not less than fifty dollars nor more than five hundred dollars, and, in default of payment, if an individual, to imprisonment for a term not exceeding six months.

48. Sections 49 to 53 shall be deemed not to have the effect of releasing or waiving any right of action by the Board or by any person for any right, penalty or forfeiture that has arisen, or that arises, under any of the laws of the Province, and any penalty or forfeiture enforceable under this Act does not affect or bar any action at law, or any prosecution, against any owner of a gas utility, or the officers, directors, agents or employees thereof.

(d) Municipal Right

49. (1) Where the council of a municipality deems that the interest of the public in the municipality or in a considerable portion of the municipality is sufficiently concerned, the council may by resolution authorize the municipality to become a complainant or intervenant in any matter within the jurisdiction of the Board.

(2) For the purposes of subsection (1), the council of a municipality may take any steps, incur any expense and take any proceedings necessary to submit the question in dispute to the decision of the Board, and if necessary may authorize the municipality to become a party to an appeal from a decision of the Board.

(e) General

50. For the purposes of this Act, the Board has the same powers in respect of the plant, premises, equipment, service and organization for the production, distribution and sale of gas in the Province, and in respect of the business of an owner of a gas utility and in respect of an owner of a gas utility, as are by *The Public Utilities Board Act* conferred upon the Board in the case of a public utility under that Act.

51. All the provisions of *The Public Utilities Board Act* relating to the jurisdiction of the Board, hearings, service

52. Commencement.

of notices or orders, regulations, rules and procedure, enforcement of orders, appeals, rights, privileges and immunities of the Board, and applicable in the case of a public utility under that Act, if not provided for expressly in this Act, apply and have effect as if this Act formed a part of *The Public Utilities Board Act*.

52. This Act comes into force on the first day of July, 1960.

No. 96

FIRST SESSION

FOURTEENTH LEGISLATURE

8 ELIZABETH II

1960

BILL

An Act respecting Gas Utilities in
the Province

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MANNING
