

1972 Bill 59

First Session, 17th Legislature, 21 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 59

The Hydro and Electric Energy Amendment Act, 1972

THE HONOURABLE MR. WERRY

First Reading

Second Reading

Third Reading

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1972

THE HYDRO AND ELECTRIC ENERGY AMENDMENT ACT, 1972

(Assented to _____, 1972)

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

1. *The Hydro and Electric Energy Act is hereby amended.*
2. *Section 1, subsection (1) is amended by striking out clause 13 and by substituting the following clauses:*
 13. “substation” means a part of a transmission line that is not a transmission circuit and includes equipment for transforming, compensating, switching, rectifying or inverting of electric energy flowing to, over or from the transmission line;
 14. “transmission line” means a system or arrangement of lines of wire or other conductors and transformation equipment, wholly within Alberta, whereby electric energy, however produced, is transmitted in bulk, and includes
 - (i) transmission circuits composed of the conductors which form the minimum set required to so transmit electric energy,
 - (ii) insulating and supporting structures,
 - (iii) substations,
 - (iv) operational and control devices, and
 - (v) all property of any kind used for the purpose of, or in connection with, or incidental to, the operation of the transmission line,but does not include a power plant or an electric distribution system.
3. *Section 2 is amended by striking out clause (e) and by substituting the following clause:*
 - (e) to assist the Government to control pollution and ensure environment conservation in the development of hydro energy and in the generation, transmission and distribution of electric energy, and

Explanatory Notes

1. This Bill will amend chapter 49 of the Statutes of Alberta, 1971

2. Section 1, subsection (1), clause 13 presently reads:

- 13. "transmission line" means a system or arrangement of lines of wire or other conductors and transformation equipment, wholly within the Province and whereby electric energy, however produced, is transmitted, and
 - (i) includes all property of any kind used for the purpose of, or in connection with, or incidental to the operation of a transmission line, but
 - (ii) does not include a power plant or an electric distribution system.

3. Section 2, clause (e) presently reads:

- 2. The purposes of this Act are
 - (e) to control pollution and ensure environment conservation in the development of hydro energy and in the generation, transmission and distribution of electric energy, and

4. Section 3 is amended

(a) as to subsection (1)

(i) by striking out clause 6 and by substituting the following:

6. as to the measures to be taken in the construction, operation or abandonment of any power plant or transmission line for

(i) the protection of life, property and wildlife, and

(ii) the prevention and extinguishment of fires;

(ii) by adding after clause 15 the following clause:

16. prescribing a uniform system of accounts applicable to any person owning or operating a hydro development, power plant, transmission line or electric distribution system not exempted by the regulations or by the Board.

(b) by adding the following subsection after subsection (3):

(4) Subject to the approval of the Minister of the Environment, the Board may make regulations as to the measures to be taken in the construction, operation or abandonment of any power plant or transmission line for the control of pollution and ensuring environment conservation.

5. Sections 7 and 8 are struck out and the following sections are substituted:

7. (1) No person shall construct a hydro development unless the Board, by order, has approved the construction of the hydro development in accordance with this section.

(2) Where a person proposes to construct a hydro development, he shall apply to the Board for an order approving the construction of the hydro development.

(3) Where the Board receives an application for an order approving the construction of a hydro development, the Board shall make such investigation, make such inquiry and hold such hearings as it considers necessary or desirable in connection with the application.

(4) During any investigation, inquiry and hearing under subsection (3), the Board shall refer the application for an order for the construction of the hydro development to

(a) the Minister of the Environment, and

(b) the Minister of Lands and Forests,

for their approval with respect to the application as it affects matters of the environment.

4. Section 3, subsection (1), clause 6 presently reads:

3. (1) The Board may make regulations
6. as to the measures to be taken in the construction, operation or
abandonment of any power plant or transmission line for
(i) the protection of life, property and wild life,
(ii) the prevention and extinguishment of fires, and
(iii) the control of pollution and ensuring environment conservation;

5. Sections 7 and 8 presently read:

7. (1) No person shall construct or operate
(a) a hydro development, or
(b) a power plant,
unless the Board, by order and with the authorization of the Lieutenant Governor in Council, has approved the hydro development or power plant.
(2) The holder of an approval under this section shall not make a significant alteration in his hydro development or power plant unless the Board has amended the approval or issued a new approval to cover the alteration.
(3) The authorization of the Lieutenant Governor in Council is not required where the Board amends an approval or issues a new approval under this section or issues a new approval for the purpose only of consolidating and revising a previous approval and subsequent amendments to it.
(4) Notwithstanding subsection (1), the site for a hydro development or power plant may be surveyed without an approval.
(5) This section does not apply to a person generating or proposing to generate electric energy solely for his own use, unless the Board otherwise directs.
8. (1) The Board shall refer an application for approval of a hydro development to the Department of the Environment and the Department of Lands and Forests for their advice.
(2) The Board shall refer an application for approval of a power plant to the Department of the Environment for its advice.
(3) In considering an application under section 7, the Board shall consider the advice of a Department to which the application was referred under subsection (1) or subsection (2).

(5) The Minister of the Environment and the Minister of Lands and Forests or either of them may give their approval with or without conditions, but where conditions are imposed, the Board shall, if it approves the construction of the hydro development pursuant to subsection (10), make its order subject to the same conditions imposed by the Minister of the Environment or the Minister of Lands and Forests or both of them, when they gave their approval.

(6) The Board may, after making an investigation, inquiry and holding such hearings as it considers necessary, refuse the application for an order of the Board for the construction of a hydro development.

(7) Subject to subsection (11), where the Board does not refuse an application to construct a hydro development it shall after dealing with the matters mentioned in subsections (3) and (4), report thereon to the Lieutenant Governor in Council.

(8) Upon a report being received by the Lieutenant Governor in Council pursuant to subsection (7), the Executive Council shall cause a Bill to be prepared for the authorization of an order of the Board for the construction of the hydro development by the Legislature.

(9) The Bill for the authorization of an order of the Board for the construction of the hydro development shall be introduced in the Legislative Assembly as soon as it has been prepared if the Assembly is then sitting and if not, in the next session following the preparation of the Bill.

(10) Upon a Bill for the authorization of an order of the Board for the construction of a hydro development receiving Royal Assent, the Board shall, by order, approve the construction of the hydro development but shall make its approval in accordance with subsection (5) and may make its approval subject to such other conditions as it is empowered to impose under this Act and the regulations.

(11) The Board shall not approve the construction of a hydro development unless there is an Act authorizing an order of the Board for the construction of the hydro development.

7.1 (1) No person shall operate a hydro development unless the Board, by order and with the authorization of the Lieutenant Governor in Council, has approved the operation.

(2) The Lieutenant Governor in Council may make his authorization under subsection (1) subject to such terms and conditions as he considers necessary or desirable.

7.2 (1) No person shall construct or operate a power plant unless the Board, by order and with the authorization of the Lieutenant Governor in Council, has approved the construction and operation of the power plant.

(2) An authorization of the Lieutenant Governor in Council is not required under subsection (1) in respect of

- (a) a power plant using a fossil fuel as its energy source or an addition to a power plant using a fossil fuel as its energy source, if the power plant or addition will have a capacity of 15 megawatts or less, or
- (b) an amendment of an approval that the Board considers to be of a minor nature and not warranting such authorization.

(3) Prior to the Board approving the construction and operation of the power plant, it shall refer the application to the Minister of the Environment for his approval of the application as it affects matters of the environment.

(4) The Lieutenant Governor in Council may make his authorization under subsection (1) subject to such terms and conditions as he considers necessary or desirable.

(5) The Minister of the Environment may give his approval with or without conditions, but where conditions are imposed, the Board shall, if it approves the construction and operation of the power plant, make its order subject to the same conditions imposed by the Minister of the Environment when he gave his approval.

8. (1) Notwithstanding sections 7, 7.1 and 7.2, the site of a hydro development or power plant may be surveyed without an order, approval or authorization.

(2) Sections 7, 7.1 and 7.2 do not apply to a person generating or proposing to generate electric energy solely for his own use, unless the Board otherwise directs.

6. Section 10 is struck out and the following section is substituted:

10. (1) The Board shall refer an application for a permit or an amendment of a permit to the Minister of the Environment and the Minister of Lands and Forests for their approval of the application as it affects matters of the environment.

(2) The Minister of the Environment and the Minister of Lands and Forests or either of them may give their approval with or without conditions, but where conditions are imposed, the Board shall, if it grants a permit or an amendment of a permit, make the permit or amendment subject to the same conditions imposed by the Minister of the Environment or the Minister of Lands and Forests, or both of them, when they gave their approval.

6. Section 10 presently reads:

10. (1) The Board shall refer an application for a permit or an amendment of a permit to the Department of the Environment and the Department of Lands and Forests for their advice.

(2) In considering an application under section 9, the Board shall consider the advice of a Department to which the application was referred under subsection (1).

7. Section 14 is amended by adding the following subsection after subsection (2):

(2.1) Notwithstanding subsection (2), the Board may issue a direction under that subsection without the authorization of the Lieutenant Governor in Council where the interconnection is not for the purpose of interprovincial or international transmission of electric energy.

8. Section 15 is amended by adding the following subsection after subsection (2):

(3) Notwithstanding

(a) section 7, subsections (5) and (10),

(b) section 7.2, subsection (5), and

(c) section 10, subsection (2),

the Board is not required to impose the conditions specified by the Minister of the Environment and the Minister of Lands and Forests or either of them when the Lieutenant Governor in Council directs that the conditions are not to be imposed.

9. Section 17 is amended by adding after the word "licence" the words "under this Part".

10. Section 21, subsection (2) is amended by striking out the words "shall state" and by substituting the words "may state".

11. Section 23, subsection (4) is amended by striking out clause (c) and by substituting the following:

(c) the matters in respect of which any compensation is payable, which matters may include

(i) any facilities transferred, based upon reproduction cost new, less depreciation,

(ii) severance damages based upon

(A) such period of time as the Board considers reasonable not exceeding the period that would be remaining had the owner been a party to a franchise or contract approved under section 270 or 272 of *The Municipal Government Act*, and

(B) the actual load at the time the service area is reduced,

and

(iii) the economic effect on the overall operation of the owner of the electric distribution system.

7. Section 14(2) empowers the Board to direct the making of an interconnection but only on the authorization of the Lieutenant Governor in Council.

8. Section 15 presently reads:

15. (1) Upon an application for an approval, permit or licence under this Part, or for an amendment of an approval, permit or licence, the Board may grant the approval, permit, licence or amendment subject to such terms and conditions as it may prescribe or may deny the application.

(2) Without restricting the generality of subsection (1), the Board may

- (a) require changes in the plans and specifications of a hydro development, power plant or transmission line, or
- (b) require changes in the location of a hydro development, power plant or transmission line, or
- (c) prescribe a date before which the construction of, or operation of, the hydro development, power plant or transmission line must commence.

9. Section 17 presently reads:

17. No holder of an approval, permit or licence, and no person who operated a hydro development, power plant or transmission line at the commencement of this Act, shall discontinue the operation of, or dismantle or remove any works or installations forming part of his hydro development, power plant or transmission line, unless he has obtained the authority in writing of the Board to do so.

10. Section 21, subsection (2) presently reads:

(2) In an approval under this Part, the Board shall prescribe such conditions as it considers suitable, and shall state the period for which the approval is granted.

11. Section 23, subsection (4) presently reads in part:

(4) Where an order made under subsection (1) or (3) reduces the service area of an electric distribution system, the Board, if it considers such provision suitable, may make provision in the order for

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- (c) the matters in respect of which any compensation is payable, which matters may include any matter referred to in section 272, subsection (2), clause (b) of The Municipal Government Act, and the economic effect on the overall operation of the owner of the electric distribution system, and

and provide that if agreement on the amount of any compensation provided for cannot be reached between the parties, the amount shall be determined by the Public Utilities Board on the application of either party.

12. Section 34 is amended by adding after the number “9,” the number “13,”.

*13. Section 36 is amended by adding at the end thereof the words “except as provided in Part 6 of **The Energy Resources Conservation Act**”.*

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

12. Section 34 presently reads:

34. The Board shall not issue an order, approval or permit under the authority of section 7, 9, 14, 20 or 23 without publication of notice or a hearing, unless in the light of all the circumstances the Board considers the matter to be of a minor nature that would not warrant the publication of notice or a hearing.

13. Section 36 presently reads:

36. A decision or order of the Board under this Act is final and there is no appeal therefrom.