

1973 Bill 95

Second Session, 17th Legislature, 22 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 95

The Petroleum Marketing Act

THE MINISTER OF MINES AND MINERALS

First Reading

Second Reading

Third Reading

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BILL 95

1973

THE PETROLEUM MARKETING ACT

(Assented to , 1973)

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

1. In this Act,

- (a) "Commission" means the Alberta Petroleum Marketing Commission;
- (b) "Department" means the Department of Mines and Minerals;
- (c) "Minister" means the Minister of Mines and Minerals.

PART 1

THE ALBERTA PETROLEUM MARKETING COMMISSION

2. (1) There is hereby created a corporation with the name "Alberta Petroleum Marketing Commission" which shall consist of three members appointed by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council

- (a) shall designate one of the members of the Commission as chairman and another as vice-chairman;
- (b) may prescribe the term of office of any member or the term of office of the chairman or vice-chairman;
- (c) shall prescribe the rates of remuneration to be paid by the Commission to the members of the Commission.

(3) The members of the Commission shall be paid by the Commission their reasonable travelling and living expenses while absent from their ordinary place of residence and in the course of their duties as members of the Commission, in accordance with the by-laws of the Commission.

(4) The vice-chairman of the Commission shall exercise and perform the powers and duties of the chairman in the event of the absence or inability to act of the chairman or a vacancy in the office of chairman.

Explanatory Notes

1. Definitions.

2. Creation of the Alberta Petroleum Marketing Commission.

3. (1) Subject to subsection (2), two members of the Commission constitute a quorum at a meeting of the Commission.

(2) Where one or two vacancies occur in the membership of the Commission the remaining members or member, as the case may be, may exercise all the powers of the Commission.

(3) At its meetings, the Commission may exercise any of its powers by resolution except where some other mode of exercising the power is prescribed in this or any other Act.

4. (1) The head office of the Commission shall be at such place in Alberta as may be designated by the Lieutenant Governor in Council.

(2) The Commission may establish such other offices and agencies as it considers expedient.

5. (1) The Commission may make by-laws respecting the calling of meetings of the Commission and the conduct of business thereat, the duties and conduct of members and generally as to the conduct of the business and affairs of the Commission.

(2) *The Regulations Act* applies to by-laws of the Commission.

6. (1) The Commission may appoint such officers and employees as it considers necessary and prescribe their duties and their salaries or remuneration.

(2) The Commission may obtain the services of any agents or advisers or persons providing technical or professional services of a kind required by the Commission in connection with its business and affairs.

7. (1) The Commission is for all purposes an agent of the Crown in right of Alberta and its powers may be exercised only as an agent of the Crown in right of Alberta.

(2) An action or other legal proceeding in respect of any right or obligation acquired or incurred by the Commission on behalf of the Crown in right of Alberta, whether in its name or in the name of the Crown in right of Alberta, may be brought or taken by or against the Commission, in the name of the Commission, in any court that would have jurisdiction if the Commission were not an agent of the Crown.

8. (1) Subject to any order of the Lieutenant Governor in Council under *The Public Service Management Pension Act*, *The Public Service Pension Act* applies, with all necessary modifications, to the members and employees of the Commission.

3. Commission meetings.

4. Offices.

5. By-laws.

6. Officers and employees.

7. Commission as Crown agent.

8. Pensions.

(2) The Commission shall pay to the Provincial Treasurer for deposit in the General Revenue Fund the contributions required to be made under section 5 of *The Public Service Pension Act* together with an equal amount from the funds of the Commission as its contribution.

9. The fiscal year of the Commission is the calendar year, unless otherwise prescribed by the Lieutenant Governor in Council.

10. The Commission is subject in respect of its accounts and financial transactions to audit by the Provincial Auditor from time to time and at least once every year.

11. (1) The Commission shall annually, after the end of its fiscal year, prepare a general report summarizing its transactions and affairs during its last fiscal year and showing the revenues and expenditures during that period, an audited balance sheet of its financial transactions during that period and such other information as the Lieutenant Governor in Council may require.

(2) When the report is prepared, the Minister shall lay a copy of it before the Legislative Assembly if it is then sitting and if not, within 15 days of the commencement of the next ensuing sitting.

12. (1) The Provincial Treasurer shall pay to the Commission the moneys appropriated by the Legislature for the purposes of the Commission in equal monthly installments unless otherwise agreed between the Commission and the Provincial Treasurer.

(2) If the moneys appropriated by the Legislature for the purposes of the Commission are not sufficient in order for the Commission to meet its obligations as they become due, the Lieutenant Governor in Council may authorize the Provincial Treasurer to make payments to the Commission from the General Revenue Fund.

(3) The Commission, with the approval of the Minister and to the extent permitted by the Minister,

- (a) may from time to time borrow money from any person or enter into overdraft arrangements with a chartered bank or treasury branch, for the purpose of meeting its obligations as they become due, and
- (b) may give security for the repayment of such moneys.

(4) The Lieutenant Governor in Council may authorize the Provincial Treasurer to guarantee on behalf of the

9. Fiscal year.

10. Audit.

11. Annual report.

12. Financing.

Crown in right of Alberta the repayment of any moneys borrowed by the Commission pursuant to subsection (3) and interest thereon.

13. The Commission may

- (a) acquire, sell or exchange petroleum in Alberta;
- (b) act as an agent or broker in connection with a purchase, sale or exchange of petroleum in Alberta;
- (c) construct, purchase, lease or otherwise acquire, operate and dispose of storage facilities in Alberta for petroleum and pipe lines in Alberta for the transmission of petroleum to and from such storage facilities;
- (d) acquire, hold and sell or otherwise alienate any estate or interest in real property in Alberta;
- (e) make such banking arrangements as are necessary for the conduct of its business and affairs;
- (f) draw, make, accept, endorse, execute and issue promissory notes, bills of exchange and other negotiable and transferable instruments;
- (g) do any act incidental to or in connection with the exercise of any of its powers under this or any other Act.

13. General powers.

PART 2

MARKETING OF THE CROWN'S ROYALTY SHARE OF PETROLEUM

14. In this Part,

- (a) "agreement" means a lease, licence, permit or reservation of petroleum and natural gas rights or petroleum rights issued pursuant to *The Mines and Minerals Act* or its predecessors and to which section 170.1 of *The Mines and Minerals Act* applies;
- (b) "lessee" means the holder of an agreement according to the records of the Department.

15. (1) The Commission

- (a) shall accept delivery within Alberta of the Crown's royalty share of the petroleum recovered pursuant to an agreement and required to be delivered to it by section 170.1 of *The Mines and Minerals Act*, and
- (b) subject to subsection (2), shall sell within Alberta the Crown's royalty share of petroleum at a price that is in the public interest of Alberta.

(2) Where it accepts delivery of any petroleum pursuant to subsection (1), clause (a), the Commission may arrange for the storage of that petroleum within Alberta until such time as it has arranged for the sale of that petroleum at a price that is in the public interest of Alberta or for the utilization of that petroleum within Alberta.

16. (1) Where the Commission wishes to arrange for the storage of petroleum pursuant to section 15, the Commission may

- (a) direct the operator of a pipe line to transmit the petroleum by his pipe line to a storage facility within Alberta designated by the Commission or to a point within Alberta designated by the Commission that is enroute to a storage facility, or
- (b) subject to subsection (2), direct the owner of any storage facility within Alberta to accept the petroleum for storage and to store it in that storage facility,

subject to the payment of compensation therefor by the Commission in accordance with subsection (3) or (4).

(2) The Commission shall not make a direction under subsection (1), clause (b) in respect of a storage facility consisting of an underground formation unless an approval has been previously obtained from the Energy Resources Conservation Board pursuant to section 38, clause (d) of *The Oil and Gas Conservation Act*.

14. Definitions for Part 2.

15. Commission's responsibilities respecting the Crown's royalty share of petroleum.

16. Commission directions to compel transmission and storage of petroleum.

(3) Where a direction is made by the Commission under subsection (1), clause (a) and the Commission is unable to reach an agreement with the owner or operator of the pipe line as to the just and reasonable charges to be paid by the Commission for the transmission of the petroleum by that pipe line, section 101 of *The Public Utilities Board Act* applies.

(4) Where a direction is made by the Commission under subsection (1), clause (b) and the Commission is unable to reach an agreement with the owner or operator of the storage facility as to the just and reasonable charges to be paid by the Commission for the storage of the petroleum, the Public Utilities Board may, on the application of the Commission or the other party to the dispute, fix those storage charges.

(5) A person who does not comply with a direction given to him by the Commission under subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$5000 for each day that the failure of compliance continues.

(6) Where a person does not comply with a direction given to him by the Commission under subsection (1) then, whether or not he has been convicted of an offence under subsection (5), the Commission may by originating notice of motion apply to the Supreme Court of Alberta for an order requiring that person to comply with the direction.

17. The Commission shall pay the proceeds of sales of petroleum by it under this Part to the Provincial Treasurer for deposit in the General Revenue Fund in accordance with the directions of the Provincial Treasurer.

18. (1) The delivery to the Commission of the Crown's royalty share of petroleum recovered pursuant to an agreement operates to discharge the lessee with respect to his liability to pay that royalty to the Crown in right of Alberta but nothing in this Part shall be construed to relieve the lessee from his obligation under the lease to file reports with the Department respecting the amount of petroleum recovered pursuant to the agreement.

(2) The lessee or his agent shall furnish to the Commission a copy of each report respecting the amount of petroleum recovered that the lessee is required by the provisions of the lease to file with the Department, within the same period of time as that required under the lease for filing with the Department.

19. The Lieutenant Governor in Council may make regulations providing for any matter in connection with or incidental to the administration of this Part.

17. Payment of sales proceeds into the General Revenue Fund.

18. Reporting of production to the Commission.

19. Regulations.

PART 3

MARKETING OF THE LESSEE'S SHARE OF PETROLEUM

20. In this Part,

- (a) "agreement" means a lease, licence, permit or reservation of petroleum and natural gas rights or petroleum rights issued pursuant to *The Mines and Minerals Act* or its predecessors and to which section 170.2 of *The Mines and Minerals Act* applies;
- (b) "lessee" means the holder of an agreement according to the records of the Department;
- (c) "lessee's share of petroleum" means the petroleum, other than the Crown's royalty share thereof, recovered pursuant to an agreement;
- (d) "pool" means a pool designated by the Energy Resources Conservation Board under *The Oil and Gas Conservation Act*.

21. (1) The Commission

- (a) is the exclusive agent to sell the lessee's share of petroleum on behalf of the owner thereof, with the exclusive power to negotiate and agree to the price at which that petroleum is sold;
- (b) shall sell within Alberta the lessee's share of petroleum at the highest price that it may reasonably negotiate having regard to market conditions prevailing at the time of the sale;
- (c) shall, upon the sale of any of the lessee's share of petroleum, pay to the owners thereof the proceeds of the sale, without any deductions whatever;
- (d) shall make payment under clause (c) within 60 days after the sale of the petroleum;
- (e) shall, in carrying out its responsibilities under clauses (a) to (d), diligently endeavor to encourage and promote the orderly and equitable marketing of the lessee's share of petroleum;
- (f) shall not in selling petroleum under this section discriminate as between owners or as between petroleum from different pools or other sources, except as may be necessary to effect the orderly and equitable marketing thereof.

(2) The lessee's share of petroleum shall not, prior to its sale by the Commission, be exchanged for any other petroleum.

22. The Lieutenant Governor in Council may make regulations providing for any matter in connection with or incidental to the administration of this Part.

20. Definitions.

21. Commission's responsibilities respecting the sale of the lessee's share of petroleum.

22. Regulations.

PART 4

MARKETING SCHEME FOR PETROLEUM

23. In this Part, “marketing” includes buying, selling, storing, offering for sale and transmitting or shipping for sale or storage.

24. (1) The Lieutenant Governor in Council may make regulations for the establishment of a scheme or plan for the orderly and equitable marketing of all petroleum produced in Alberta.

- (2) Regulations under this section may
- (a) provide generally for the control and regulation by the Commission of the marketing of petroleum produced in Alberta;
 - (b) confer or impose upon the Commission any powers or duties necessary for it to regulate and control the marketing of petroleum produced in Alberta;
 - (c) confer or impose upon any person or class of persons engaged in the marketing of petroleum any powers or duties necessary to implement or carry out the scheme or plan;
 - (d) notwithstanding anything in this Act, authorize the Commission to sell petroleum at different prices depending on the location of the buyer of the petroleum or the place where the petroleum is intended to be refined or used, or depending on any other factors or circumstances prescribed by the regulations;
 - (e) prescribe the manner in which any profits or cash surplus of the Commission is to be dealt with;
 - (f) prescribe a tariff of fees payable to the Commission for any service provided by the Commission;
 - (g) authorize the Commission to accept and exercise any authority and powers granted to it by the Governor in Council or any agency of the Government of Canada;
 - (h) suspend the operation of Part 2 or 3 or any provisions thereof;
 - (i) provide for any other matter in connection with or incidental to the operation of the scheme or plan.

23. “Marketing” defined.

24. Provincial marketing scheme for petroleum. Unlike Parts 2 and 3, the scheme would apply to freehold production as well as Crown production.

PART 5

COMMENCEMENT

25. This Act comes into force on a date or dates to be fixed by Proclamation.