

1974 Bill 54

Third Session, 17th Legislature, 23 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 54

The Natural Gas Rebates Act

THE MINISTER OF TELEPHONES AND UTILITIES

First Reading

Second Reading

Third Reading

Printed by L. S. WALL, Queen's Printer for the Province of Alberta, EDMONTON

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THE NATURAL GAS REBATES ACT

(Assented to _____, 1974)

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

1. In this Act,
 - (a) "Board" means the Public Utilities Board;
 - (b) "butanes" means butanes as defined in *The Oil and Gas Conservation Act*;
 - (c) "eligible consumer" means
 - (i) with reference to marketable gas (other than marketable gas consumed for the purpose of generating electric energy),
 - (A) a person to whom gas service is provided by any other person, or
 - (B) a person who purchases marketable gas for the purpose of consuming or using it, or
 - (ii) with reference to marketable gas consumed for the purpose of generating electric energy,
 - (A) a person to whom electric energy is supplied by the owner of a public utility, whether The Public Utilities Board Act applies to that public utility or not, or
 - (B) a person who purchases electric energy for use in Alberta for residential, commercial or industrial purposes, or
 - (iii) with reference to any substance other than marketable gas, a person who is an eligible consumer as defined in the regulations;
 - (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 (i) as oil;
 - (e) "Gas Alberta" means the Minister acting in the name of Gas Alberta;
 - (f) "intermediate purchaser" means

Explanatory Notes

General. This Bill will implement the Natural Gas Price Rebate Plan announced by the Government on November 16, 1972.

I. Definitions.

- (i) with reference to marketable gas, a person who purchases marketable gas from a vendor or any other person except a supplier and who either
 - (A) resells that marketable gas to another purchaser or to an eligible consumer, or
 - (B) delivers that gas to eligible consumers as a provider of gas service, or
 - (C) consumes that marketable gas for the purpose of generating electric energy,
- (ii) with reference to a substance other than marketable gas, a person who is an intermediate purchaser as defined in the regulations;
- (g) “marketable gas” means gas which meets specifications for use as a domestic, commercial or industrial fuel or as an industrial raw material but does not include propane or butanes;
- (h) “Minister” means the Minister of Telephones and Utilities;
- (i) “oil” means crude bitumen and crude oil and all other hydrocarbons, regardless of gravity, that are recovered in liquid form from a pool by ordinary production methods but does not include butanes;
- (j) “propane” means propane as defined in *The Oil and Gas Conservation Act*;
- (k) “rebate” means a payment made by the Minister pursuant to this Act and the regulations;
- (l) “supplier” means
 - (i) with reference to marketable gas,
 - (A) the owner of gas at the time it is produced at a well, where the gas is marketable gas at the time it is produced, or
 - (B) the owner of gas at the time it becomes marketable gas, where the gas is not marketable gas at the time it is produced and requires processing in order to become marketable gas,

or
 - (ii) with reference to any substance other than marketable gas, a person who is a supplier as defined in the regulations;
- (m) “vendor” means
 - (i) with reference to marketable gas, the person who is the first purchaser of marketable gas from a supplier and who either
 - (A) delivers marketable gas to eligible consumers as a provider of gas service to those consumers, or

- (B) resells the marketable gas to an eligible consumer or to an intermediate purchaser,
or
 - (C) consumes that marketable gas for the purpose of generating electric energy,
- (ii) with reference to a substance other than marketable gas, a person who is a vendor as defined in the regulations.

2. In accordance with *The Public Service Act* there may be appointed a Director of Rebates and such other employees as are required to administer this Act.

3. (1) The Minister may, subject to this Act and the regulations, make rebates

- (a) to vendors in respect of gas purchased and delivered by vendors for consumption or use within Alberta,
or
 - (b) where he is authorized to do so by the regulations, to suppliers, intermediate purchasers or eligible consumers in respect of gas delivered for consumption or use within Alberta.
- (2) No rebate shall be paid in respect of gas delivered prior to January 1, 1974.
- (3) Not more than one rebate shall be made in respect of the same gas.

4. The Lieutenant Governor in Council may make regulations

- (a) governing applications for rebates;
- (b) authorizing the Minister to make rebates to suppliers, intermediate purchasers or eligible consumers and prescribing the circumstances under which the rebates in such cases may be applied for or made;
- (c) prescribing the circumstances under which and the conditions upon which a rebate may be made and authorizing the Minister to prescribe additional conditions in any case or in any class of cases;
- (d) prescribing the bases upon which or methods by which rebates shall be calculated;
- (e) prescribing the manner in which and the frequency with which rebates may be made;
- (f) prescribing the rights and duties of any persons or any class of persons that apply for or receive rebates;
- (g) conferring or imposing on the Board any jurisdiction, powers or duties in connection with the administration of this Act and the regulations;

2. Staff.

3. Authority to pay rebates.

4. Regulations.

- (h) conferring or imposing any powers or duties on the Minister in connection with the administration of this Act and the regulations;
- (i) authorizing the Minister to prescribe the form of any billing notice to eligible consumers receiving the benefit of rebates;
- (j) authorizing the making of rebates to the Gas Alberta Operating Fund under *The Rural Gas Act*;
- (k) defining "eligible consumer", "intermediate purchaser", "supplier" and "vendor" for the purposes of this Act and the regulations with reference to a substance other than marketable gas;
- (l) generally, governing any other matter or procedure incidental to the administration of this Act or the regulations.

5. Every rebate is subject to the following conditions, namely,

- (a) that all of the gas in respect of which the rebate is made will be consumed or used within Alberta, and
- (b) except where the rebate is made directly to an eligible consumer, that the benefit of the whole of the rebate will be passed on to eligible consumers.

6. (1) The Crown in right of Alberta has a cause of action in debt against a person to whom a rebate is made for the amount of the rebate in any of the following cases, namely,

- (a) where that person is a vendor, supplier or intermediate purchaser of the gas in respect of which the rebate was made and
 - (i) the gas is not consumed or used within Alberta and that person either removed the gas from Alberta or, at the time he sold the gas, knew or ought reasonably to have known that the gas would not be consumed or used within Alberta, or
 - (ii) that person failed to pass on the benefit of the whole of the rebate to an intermediate purchaser or to an eligible consumer, as the case may be;
- (b) where that person is an eligible consumer of the gas in respect of which the rebate is made and the gas is not consumed or used by him within Alberta;
- (c) where that person has breached a condition prescribed in the regulations or prescribed by the Minister pursuant to the regulations;
- (d) where the application for the rebate contained any false statement or misrepresentation that was material to the decision to approve the application;

5. Conditions.

6. Action for recovery of rebate from persons who received them directly.

(e) where a rebate had been made to the same or any other person in respect of the same gas as a result of an application approved prior to the time at which approval was given to the application of the person against whom the action is taken.

(2) A cause of action may be maintained under subsection (1), clause (a), subclause (i) or clause (b) for the whole of the rebate whether or not only part of the gas in respect of which the rebate was made was consumed or used outside Alberta.

(3) A cause of action may be maintained under subsection (1), clause (c) for the whole of a rebate whether or not the condition was breached only in respect of part of the gas in respect of which the rebate was made.

(4) An action under this section may be made with respect to all or part of the rebate.

7. (1) Where an intermediate purchaser of gas receives the benefit of a rebate and fails to pass on the benefit of that rebate to another intermediate purchaser or an eligible consumer, as the case may be, the Crown in right of Alberta has a cause of action in debt against the intermediate purchaser for an amount equal to the value of the benefit, or the portion thereof, that was not passed on.

(2) Where an intermediate purchaser of gas receives the benefit of a rebate, the Crown in right of Alberta has a cause of action in debt against that intermediate purchaser for an amount equal to the benefit received by him if the gas concerned is not consumed or used within Alberta and he either

(a) removed the gas from Alberta, or

(b) at the time he sold the gas, knew or ought reasonably to have known that the gas would not be consumed or used within Alberta.

(3) Where an eligible consumer receives the benefit of a rebate, the Crown in right of Alberta has a cause of action in debt against that eligible consumer if the gas concerned is not consumed or used by him within Alberta.

8. Every person who

(a) as a vendor, supplier or intermediate purchaser has received a rebate in respect of gas and either

(i) removes that gas from Alberta, or

(ii) sells that gas when, at the time of the sale, he knows or ought reasonably to have known that the gas would not be consumed or used within Alberta and the gas is subsequently consumed or used outside Alberta, or

7. Recovery of rebate from persons who have had the benefit of a rebate passed on to them but who do not receive the rebate directly from the Minister.

8. Offences and penalties.

- (iii) fails to pass on the benefit of the whole of the rebate to an intermediate purchaser or to an eligible consumer or eligible consumers,
or
 - (b) as an intermediate purchaser of gas receives the benefit of a rebate made in respect of that gas and either
 - (i) removes that gas from Alberta, or
 - (ii) fails to pass on the whole of the benefit received by him to another intermediate purchaser or to an eligible consumer or eligible consumers,
or
 - (c) as an eligible consumer of gas, receives a rebate or the benefit of a rebate made in respect of that gas and does not consume or use that gas within Alberta, or
 - (d) breaches a condition prescribed by the regulations or prescribed by the Minister pursuant to the regulations, or
 - (e) makes any false statement or misrepresentation in an application for a rebate that was material to the decision to approve the application, or
 - (f) accepts a rebate knowing that a rebate has been paid in respect of the same gas pursuant to an application approved prior to the time that the application by that vendor was approved, or
 - (g) fails to comply with an order of the Board under the regulations,
- is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000.

9. The Lieutenant Governor in Council may make regulations

- (a) extending the application of this Act to heating oil;
- (b) defining "heating oil" for the purposes of this section and the regulations under this section;
- (c) providing for any matter in connection with rebates made in respect of heating oil that may be provided for in the regulations under section 4 in relation to gas;
- (d) declaring any provision of this Act applicable, with the necessary modifications, to heating oil.

9. Extension of Act to heating oil.

10. (1) *The Gas Utilities Act is amended by this section.*

(2) *Section 29 is amended*

- (a) *as to subsection (1) by striking out the words "who has with a producer of gas a contract whereby" and by substituting the words "who purchases gas pursuant to a contract under which",*
- (b) *as to subsection (1) by adding the word "or" at the end of clause (c) and by adding the following clause:*
 - (d) *for the redetermination of the price of gas to the owner of the gas utility either by agreement of the parties or pursuant to arbitration,*
- (c) *as to subsection (1) by adding after the words "municipality affected" the words "and to such other persons as the Board may direct,"*
- (d) *as to subsection (2) by adding after the words "a municipality affected" the words "or any other person that the Board considers to be affected by the new schedule."*

(3) *Section 30 is struck out and the following is substituted therefor:*

30. Where the owner of a gas utility supplying gas to consumers enters into a contract for the purchase of gas under which provision is made for any of the matters referred to in section 29, subsection (1), clauses (a) to (d), a copy of the contract shall be forthwith filed with the Board and a notice thereof sent to such persons as the Board may direct.

11. (1) *The Public Utilities Board Act is amended by this section.*

(2) *The following section is added after section 81:*

81.1 (1) For the purpose of fixing the just and reasonable rates that may be charged to consumers of power by an owner of a public utility who generates that power by the use of gas and who purchases gas for that purpose pursuant to a contract under which provision is made

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

10. This section will amend chapter 158 of the Revised Statutes of Alberta 1970. Sections 29 and 30 presently read:

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, or

(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 60 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 section 29, subsection (1), clauses (a) to (c), 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.

11. This section will amend chapter 302 of the Revised Statutes of Alberta 1970. The proposed section 81.1 is the equivalent of sections 29 and 30 of The Gas Utilities Act, as amended by section 10 of this Bill, but related to electric power utilities that use gas to generate power.

prices by any purchaser of gas in any gas producing area, or

- (d) for the redetermination of the price of gas to the owner of the public utility either by agreement of the parties or pursuant to arbitration,

the Board, upon the application of the owner of the public utility and upon notice by the owner to any municipality affected and to such other persons as the Board may direct, 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 public utility upon receiving the approval of the Board thereto, unless within 60 days following the filing of a new schedule the Board, either on complaint of a municipality affected or any other person that the Board considers to be affected by the new schedule or upon its own motion without complaint, directs an inquiry into the justness and reasonableness of the new schedule of rates.

(3) Where the owner of the public utility supplying power to consumers enters into a contract for the purchase of gas under which provision is made for any of the matters referred to in subsection (1), clauses (a) to (d), a copy of the contract shall be forthwith filed with the Board and a notice thereof sent to such persons as the Board may direct.

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