

1975 Bill 56  
(Second Session)

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First Session, 18th Legislature, 24 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 56**

THE PUBLIC UTILITIES BOARD AMENDMENT ACT, 1975

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MR. DIACHUK

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First Reading .....

Second Reading .....

Third Reading .....

*Bill 56*  
*Mr. Diachuk*

## **BILL 56**

1975

(Second Session)

### **THE PUBLIC UTILITIES BOARD AMENDMENT ACT, 1975**

*(Assented to , 1975)*

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

- 1. The Public Utilities Board Act is hereby amended.*
- 2. Section 3, subsection (2) is amended by striking out the word "five" and by substituting the word "nine".*
- 3. Section 4 is struck out and the following sections are substituted therefor:*
  - 4. (1) A majority of the members then holding office constitute a quorum of the Board at a sitting of the Board.**
  - (2) Any decision or other action of the Board made or taken at a sitting of the Board at which a quorum is present is the decision or action of the Board and binds all members of the Board.**
  - (3) The chairman may designate a member to preside at any sitting of the Board at which the chairman is not present.**
  - (4) Where a hearing, inquiry, investigation or other proceeding conducted by the Board and one or more members of the Board do not for any reason attend on any day or part of a day, the remaining members present may, if they constitute a quorum of the Board, exercise and perform all the jurisdiction, powers and duties of the Board.**
- 4.1 (1) The chairman may designate any two or more members of the Board to sit as a division of the Board and may direct that division to conduct any hearing, inquiry, investigation or other proceeding which the Board itself could conduct under this or any other Act.**
  - (2) Two members constitute a quorum at any sitting of a division of the Board.**

## Explanatory Notes

**1.** This Bill will amend chapter 302 of the Revised Statutes of Alberta 1970.

**2.** Section 3(2) presently reads:

(2) The Board shall be composed of not more than five members to be appointed by the Lieutenant Governor in Council.

**3.** Section 4 presently reads:

4. (1) The members of the Board shall, at the direction of the chairman, sit as

- (a) the Board, or
- (b) a division of the Board, or
- (c) two divisions of the Board.

(2) Three members constitute a quorum at a sitting of the Board or at a sitting of a division of the Board.

(3) The Board may sit in two divisions simultaneously or at different times.

(4) Any decision or other action of the Board made or taken at a sitting of the Board at which a quorum is present is the decision or action of the Board and binds all members of the Board.

(5) Where a division of the Board, at which a quorum is present, sits, whether by itself or simultaneously with the other division of the Board, any decision or action of the division is the decision or action of the Board and binds all members of the Board.

(6) Where a division of the Board sits at the direction of the chairman, that division may exercise and perform the jurisdiction, powers and duties of the Board.

(7) The chairman may designate a member to preside at any sitting of the Board, or a division thereof, at which the chairman is not present.

(8) Notwithstanding subsection (2), where a hearing, inquiry, investigation or other proceeding is held by the Board, and a member or members of the Board is or are for any reason unable to attend on any day or part of a day, the other member or members present who were sitting on the hearing, inquiry, investigation or other proceeding may exercise and perform all the jurisdiction, powers and duties of the Board.

Section 4 is split into two sections, the first dealing with the Board itself and the second with divisions of the Board.

In the proposed new section 4, the quorum of the Board is increased from three to a majority of members. The proposed subsection (4) of that section differs from subsection (8) of the present section in not allowing a Board hearing to continue in the absence of a quorum.

The proposed section 4.1 will allow for the creation of more than two divisions of the Board and reduces the quorum for a division from three to two. Subsection (7) of the proposed section 4.1 is similar to the proposed section 4 (4) and the present section 4 (8).

(3) Any decision or other action made or taken at a sitting of a division of the Board at which a quorum is present is the decision or action of the Board and binds all members of the Board.

(4) A division of the Board may exercise and perform all the jurisdiction, powers and duties of the Board under this or any other Act with respect to the hearing, inquiry, investigation or other proceeding it is directed to conduct and for that purpose any reference in this or any other Act to the Board shall be deemed to be a reference to the division of the Board.

(5) The chairman may designate a member of a division of the Board to preside at any sitting of the division at which the chairman is not present.

(6) A division of the Board shall conduct its sittings separately from those of any other division of the Board being conducted at the same time but may not sit at any time during which the Board itself is sitting.

(7) Where a hearing, inquiry, investigation or other proceeding is conducted by a division of the Board and one or more members of the division do not for any reason attend on any day or part of a day, the remaining members present may, if they constitute a quorum of the division, exercise and perform all the jurisdiction, powers and duties of the Board with respect to that hearing, inquiry, investigation or proceeding.

*4. Section 9 is amended*

*(a) by striking out subsection (2) and by substituting the following:*

(2) When in his opinion it is necessary or desirable for the proper and expeditious performance of the Board's duties, the chairman may name one or more persons nominated under subsection (1) as acting members for any period of time or during any circumstances or for the purpose of any matter before the Board.

*(b) by striking out subsection (4) and by substituting the following:*

(4) Section 3, subsection (2) does not prevent the enlargement of the Board to more than nine members by the naming of one or more acting members in accordance with this section, but the Board shall not be enlarged pursuant to this section so that there are more than 12 members during any period of time.

(5) Section 5, subsection (2) and sections 25 and 26 do not apply to acting members of the Board.

**4. Section 9 presently reads:**

9. (1) The Lieutenant Governor in Council may from time to time, upon the request of the chairman of the Board, nominate one or more persons from among whom acting members of the Board may be selected.

(2) When in his opinion it is necessary or desirable for the proper and expeditious performance of the Board's duties, the chairman may name a person nominated under subsection (1) as an acting member for a period of time, or during any circumstances, or for the purpose of any matter before the Board.

(3) An acting member has, during the period, or under the circumstances, or for the purpose for which he is named as an acting member, all the powers of and may perform all the duties of a member of the Board and shall receive such remuneration as may be prescribed by the Lieutenant Governor in Council.

(4) Section 3, subsection (2) does not prevent the enlargement of the Board to more than five members by the naming of one or more acting members in accordance with this section, but the Board shall not be enlarged pursuant to this section so that there are more than eight members during any period of time.

(6) No acting member of the Board shall hold any office or carry on any business or employment inconsistent with the performance of his duties as an acting member of the Board.

5. *Section 36 is amended by striking out subsection (3).*

6. *The following section is added after section 70:*

**70.1** (1) The Board, either upon its own initiative or upon the application of any person having an interest, may, and upon the order of the Lieutenant Governor in Council shall,

(a) declare any of the items referred to in section 2, clause (j), subclause (i), (ii) or (iii) not to be a public utility, or

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

(2) An order of the Board under subsection (1) shall be subject to such terms and conditions as the Board may require or which the Lieutenant Governor in Council may impose in an order under subsection (1).

(3) The Board, either upon its own initiative or upon the application of any person having an interest, may after notice and hearing, and upon the order of the Lieutenant Governor in Council shall, vary or rescind in whole or in part any order made by the Board pursuant to this section.

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

**5. Section 36 (3) presently reads:**

(3) Any application, petition, matter or complaint over which the Board has jurisdiction under this Act or any other Act may be heard by three members of the Board or by a single member of the Board and after the hearing the members or member shall report their or his findings to the Board, and the Board may thereupon deal with the application, petition, matter or complaint as if the hearing had been before the Board.

Subsection (3) is struck out as being redundant and in conflict with the provisions of section 4: see section 3 of this Bill.

**6. Declaration as to "public utility" or application of any provisions of this Act. A similar section is found in The Gas Utilities Act.**