

1976 BILL 82

Second Session, 18th Legislature, 25 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 82

**THE PETROLEUM MARKETING AMENDMENT
ACT, 1976**

THE MINISTER OF ENERGY AND NATURAL RESOURCES

First Reading

Second Reading

Third Reading

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BILL 82

1976

THE PETROLEUM MARKETING AMENDMENT ACT, 1976

(Assented to _____, 1976)

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

PART 1

THE PETROLEUM MARKETING ACT

- 1. The Petroleum Marketing Act is amended by this Part.*
- 2. Section 1 is amended by adding the following clause after clause (c):*
 - (d) "pentanes plus" means pentanes plus as defined by The Oil and Gas Conservation Act and condensate as defined by that Act, but does not include petroleum.*
- 3. Section 8 is struck out and the following is substituted therefor:*
 - 8. (1) *The Public Service Pension Act* applies to the members and employees of the Commission as if they were employees of the Government, subject to any modifications and exceptions and to any terms and conditions prescribed by the Lieutenant Governor in Council on the recommendation of the member of the Executive Council charged with the administration of that Act.**

Explanatory Notes

1. This Part of the Bill will amend chapter 96 of the Statutes of Alberta, 1973.

2. Section 1 contains defined expressions for the purposes of the Act: see section 4 of this Bill and the new Parts 5 and 6 being added by section 7 of this Bill.

3. Section 8 presently reads:

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.

(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.

(2) Subsection (1) shall not be construed as precluding the Lieutenant Governor in Council from making an order under section 35 of *The Public Service Management Pension Act* with respect to any members or employees of the Commission.

4. *Section 13 is amended as to clauses (a), (b) and (c) by adding after the word "petroleum" wherever it occurs the words "or pentanes plus".*

5. *Section 21 is amended*

(a) as to subsection (1) by striking out clause (a) and by substituting the following:

(a) shall accept delivery within Alberta of the lessee's share of petroleum and upon delivery of that petroleum to it becomes the exclusive agent to sell that petroleum on behalf of the owners thereof, with the exclusive power to negotiate and agree to the price at which that petroleum is sold and to determine the purchaser to whom that petroleum is sold;

(b) by adding the following subsection after subsection (2):

(3) Subsections (1) and (2) do not apply in any case where the Commission purchases the lessee's share of petroleum from the owner thereof.

4. Section 13(a), (b) and (c) presently read:

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;*

5. Section 21 presently reads:

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.

6. *The following section is added after section 24:*

24.1 This Part comes into force on a date to be fixed by Proclamation.

7. *Part 5 is struck out and the following is substituted:*

PART 5

MARKETING OF THE CROWN'S ROYALTY SHARE OF PENTANES PLUS

25. In this Part,

- (a) "agreement" means a lease, licence, permit or reservation of petroleum and natural gas rights or natural gas rights issued pursuant to *The Mines and Minerals Act* or its predecessors and to which section 138 of *The Mines and Minerals Act* applies;
- (b) "lessee" means the holder of an agreement according to the records of the Department.

26. (1) The Commission

- (a) shall accept delivery within Alberta of the Crown's royalty share of the pentanes plus recovered pursuant to an agreement and required to be delivered to it by section 138 of *The Mines and Minerals Act*, and
- (b) subject to subsection (2), shall sell within Alberta the Crown's royalty share of pentanes plus at a price that is in the public interest of Alberta.

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

6. The proposed section 24.1 will be in Part 4 which involves an alternative marketing scheme. All of the present Act has been proclaimed in force except Part 4. Section 24.1 will replace the present Part 5 of the Act which is entitled "Commencement" and contains only section 25 which reads:

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

Part 5 will be repealed by section 7 of this Bill.

25. Definitions.

26. Marketing of Crown's royalty share.

27. (1) Where the Commission wishes to arrange for the storage of pentanes plus pursuant to section 26, the Commission may

(a) direct the operator of a pipe line to transmit the pentanes plus 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 pentanes plus 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*.

(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 pentanes plus 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 pentanes plus, 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

27. Direction to transmit or store pentanes plus.

or not he has been convicted of an offence under subsection (5), the Commission may by originating notice apply to the Supreme Court of Alberta for an order requiring that person to comply with the direction.

28. The Commission shall pay the proceeds of sales of pentanes plus 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.

29. (1) The delivery to the Commission of the Crown's royalty share of pentanes plus 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 agreement to file reports with the Department respecting the amount of pentanes plus 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 pentanes plus recovered that the lessee is required by the provisions of the agreement to file with the Department, within the same period of time as that required under the agreement for filing with the Department.

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

PART 6 MARKETING OF THE LESSEE'S SHARE OF PENTANES PLUS

31. In this Part,

(a) "agreement" means a lease, licence, permit or reservation of petroleum and natural gas rights or natural gas rights issued pursuant to *The Mines and Minerals Act* or its predecessors and to which section 139 of *The Mines and Minerals Act* applies;

(b) "lessee" means the holder of an agreement according to the records of the Department;

28. Disposition of sales proceeds.

29. Report re production.

30. Regulations.

31. Definitions.

- (c) "lessee's share of pentanes plus" means the pentanes plus 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*.

32. (1) The Commission

- (a) shall accept delivery within Alberta of the lessee's share of pentanes plus and upon delivery of that pentanes plus to it becomes the exclusive agent to sell that pentanes plus on behalf of the owners thereof, with the exclusive power to negotiate and agree to the price at which that pentanes plus is sold and to determine the purchaser to whom that pentanes plus is sold;
- (b) shall sell within Alberta the lessee's share of pentanes plus 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 pentanes plus, 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 pentanes plus;
- (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 pentanes plus;
- (f) shall not in selling pentanes plus under this section discriminate as between owners or as between pentanes plus 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 pentanes plus shall not, prior to its sale by the Commission, be exchanged for any other pentanes plus.

(3) Subsections (1) and (2) do not apply in any case where the Commission purchases the lessee's share of petroleum from the owner thereof.

32. Marketing of lessee's share.

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

PART 2

THE MINES AND MINERALS ACT

8. *The Mines and Minerals Act is amended by this Part.*

9. *The following sections are added after section 137:*

138. (1) Every agreement to which this section applies is subject to the condition that the Crown's royalty share of the pentanes plus recovered pursuant to the agreement shall be delivered to the Alberta Petroleum Marketing Commission incorporated under *The Petroleum Marketing Act*.

(2) This section applies only to those agreements to which it is made applicable by the regulations under subsection (3).

(3) The Lieutenant Governor in Council may make regulations declaring this section applicable either

(a) to all agreements granting petroleum and natural gas rights or natural gas rights, or

(b) to agreements granting petroleum and natural gas rights or natural gas rights the locations of which are situated in the part or parts of Alberta specified in the regulations.

(4) The Minister may, with respect to any agreement to which this section applies and in any special case where he considers it warranted by circumstances to do so, waive compliance with subsection (1) for any period of time and upon any conditions he may prescribe.

(5) In this section and section 139, "pentanes plus" means pentanes plus as defined by *The Oil and Gas Conservation Act* and condensate as defined by that Act, but does not include petroleum.

33. Regulations.

8. This Part of the Bill will amend chapter 238 of the Revised Statutes of Alberta 1970.

138. Marketing of Crown's share of pentanes plus.

139. (1) Every agreement to which this section applies is subject to the condition that the pentanes plus recovered pursuant to the agreement, other than the Crown's royalty share thereof, shall be sold through the Alberta Petroleum Marketing Commission incorporated under *The Petroleum Marketing Act*.

(2) This section applies only to those agreements to which it is made applicable by the regulations under subsection (3).

(3) The Lieutenant Governor in Council may make regulations declaring this section applicable either

(a) to all agreements granting petroleum and natural gas rights or natural gas rights, or

(b) to agreements granting petroleum and natural gas rights or natural gas rights the locations of which are situated in the part or parts of Alberta specified in the regulations.

(4) This section applies to an agreement notwithstanding any contract or arrangement made before or after the commencement of this section and relating to the sale or other disposition of the pentanes plus recovered from the location of the agreement and no party to any such contract or arrangement has a cause of action against any other party thereto by reason of the effect of the operation of this section upon that contract or arrangement.

(5) The Minister may, with respect to any agreement to which this section applies and in any special case where he considers it warranted by circumstances to do so, waive compliance with subsection (1) for any period of time and upon any conditions he may prescribe.

PART 3

COMMENCEMENT

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

139. Marketing of lessee's share of pentanes plus.