

1977 BILL 52

Third Session, 18th Legislature, 26 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 52

**THE NATURAL GAS PRICING AGREEMENT
AMENDMENT ACT, 1977**

THE MINISTER OF ENERGY AND NATURAL RESOURCES

First Reading

Second Reading

Third Reading

BILL 52

1977

THE NATURAL GAS PRICING AGREEMENT AMENDMENT ACT, 1977

(Assented to _____, 1977)

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

1. *The Natural Gas Pricing Agreement Act is hereby amended.*
2. *Section 1 is amended*
 - (a) *as to subsection (1) by adding after clause (c) the following clause:*
 - (c.1) “Commission” means the Alberta Petroleum Marketing Commission incorporated under *The Petroleum Marketing Act*;
 - (b) *as to subsection (1) by striking out clause (d) and by substituting the following:*
 - (d) “contract delivery point” means
 - (i) with reference to a gas sales contract, the point at which delivery is taken by the original buyer under the gas sales contract, or
 - (ii) with reference to a resale contract, the point at which delivery is taken by the second buyer under the resale contract;
 - (c) *as to subsection (1), clause (e) by striking out the words “means the price of gas under a gas sales contract” and by substituting the words “means, with reference to a gas sales contract or a resale contract, the price of gas under the contract”,*
 - (d) *as to subsection (1), clause (h) by striking out the words “(as those expressions are defined in *The Oil and Gas Conservation Act*)”,*
 - (e) *as to subsection (1) by adding the following clause after clause (m):*

Explanatory Notes

1. This Bill will amend chapter 38 of the Statutes of Alberta, 1975 (Second Session).

2. (a) “Commission” defined. See note to section 3 of this Bill.

(b) to (d) Section 1(1)(d), (e), (h) and (o) and (4) presently read:

1. (1) *In this Act,*

(d) “contract delivery point” means the point within Alberta at which delivery of gas is taken by the original buyer under a gas sales contract;

(e) “contract field price” means the price of gas under a gas sales contract, whether the price is specified in the contract or is redetermined pursuant to the contract by agreement or by arbitration;

(h) “gas” means raw gas or marketable gas (as those expressions are defined in *The Oil and Gas Conservation Act*) that is produced, extracted or recovered in Alberta;

(o) “regulated field price” means, with reference to any gas sales contract, the price to be paid under the contract by virtue of the operation of section 10, subsections (1) and (2) or the regulations under section 6, clause (c.1), whichever applies to the contract.

(4) *For the purposes of this Act,*

(a) where a supplier and producer delivers his gas to any person under an order of the Public Utilities Board made pursuant to *The Gas Utilities Act* requiring him to do so,

(i) the order of the Board shall be deemed to be a gas sales contract,

(ii) the gas so supplied and delivered shall be deemed to be delivered under a gas sales contract,

(iii) the point at which the gas is delivered under the order shall be deemed to be the contract delivery point, and

- (m.1) “processing plant” means a processing plant as defined in *The Oil and Gas Conservation Act*;
- (f) as to subsection (1) by striking out clause (o) and by substituting the following clauses:
 - (n.1) “raw gas” means raw gas as defined in *The Oil and Gas Conservation Act*;
 - (o) “regulated field price” means
 - (i) with reference to a gas sales contract, the price to be paid under the contract by virtue of the operation of section 10, subsections (1) and (2), and
 - (ii) with reference to a resale contract, the price to be paid under the contract by virtue of section 10, subsection (3.1);
 - (p) “resale contract” means a contract for the sale of marketable gas to which section 10, subsection (3.1) applies;
 - (q) “second buyer” means the person who is the buyer of marketable gas under a resale contract.
- (g) by adding the following subsection after subsection (4):
 - (5) For the purposes of this Act,
 - (a) where an original buyer purchases raw gas under a gas sales contract, recovers marketable gas from that raw gas by processing it in a processing plant and supplies and delivers marketable gas so recovered to any person under an order of the Public Utilities Board made pursuant to *The Gas Utilities Act* requiring him to do so,
 - (i) the order of the Board shall be deemed to be a resale contract,
 - (ii) the gas so supplied and delivered shall be deemed to be delivered under a resale contract,
 - (iii) the point at which the gas is delivered under the order shall be deemed to be the contract delivery point, and
 - (iv) the person to whom the gas is delivered shall be deemed to be the second buyer of the gas;

- (iv) the person to whom the gas is delivered shall be deemed to be the original buyer of the gas;*
- (b) where the price of gas sold by the producer of the gas is a price fixed and determined by an order of the Public Utilities Board under The Gas Utilities Act, the price so fixed and determined shall be deemed to be the contract field price of the gas notwithstanding the existence of any gas sales contract that provides for the price of the gas.*

See amendments in this Bill to sections 6 and 10 of the Act.

The new subsection (5) is the equivalent of subsection (4) but related to “resale contracts”.

- (b) where the price of marketable gas sold by an original buyer referred to in clause (a) is a price fixed and determined by an order of the Public Utilities Board under *The Gas Utilities Act*, the price so fixed and determined shall be deemed to be the contract field price of the gas notwithstanding the existence of any resale contract that provides for the price of the gas.

3. (1) *The word “Minister” is struck out wherever it occurs in the following provisions and the word “Commission” is substituted therefor:*

Section 1, subsection (1), clauses (b) and (m)
and subsection (3);
Section 2;
Section 5, subsection (1);
Section 5.1;
Section 10, subsection (2), clause (a),
subclause (ii) and subsection (5);
Section 13, clause (a);
Section 14;
Section 15;
Section 16.

(2) *Section 13, clause (b) is amended by striking out the word “Crown” and by substituting the word “Commission”.*

(3) *Section 14 is amended*

(a) *as to subsection (2) by striking out the words “Crown in right of Alberta” and by substituting the word “Commission”,*

(b) *as to subsection (3), subsection (5), clause (a) and subsection (7) by striking out the word “Minister’s” wherever it occurs and by substituting the word “Commission’s”,*

(c) *as to subsection (4) by striking out the words “, on behalf of the Crown in right of Alberta,”,*

(d) *as to subsection (7) by striking out the word “he” and by substituting the words “the Commission”.*

(4) *Section 15, subsection (1) is amended by striking out all that portion of the subsection preceding clause (a) and by substituting the following:*

15. (1) Where the Commission becomes the owner of any gas pursuant to section 14, the Commission

(5) *Section 16, subsection (4), clause (a) is amended by striking out the word “him” and by substituting the words “the Commission”.*

3. The effect of these amendments and other related amendments in this Bill is to transfer to the Alberta Petroleum Marketing Commission all of the functions of the Minister of Energy and Natural Resources under the Act except the Minister's power to enter into a federal-provincial agreement under section 4 and the Minister's responsibility to table annual reports under sections 15 and 16 relating to the Funds under those sections.

4. *Section 3 is struck out.*

5. *Section 6 is amended*

(a) *by striking out clause (c.1),*

(b) *by adding the following clauses after clause (c.3):*

(c.4) exempting any class of resale contracts from the operation of section 10, subsection (3.1);

(c.5) exempting second buyers under any class of resale contracts from the payment of price adjustments;

6. *Section 9 is amended by adding after the words “gas sales contracts” the words “and resale contracts”.*

7. *Section 10 is amended*

(a) *by striking out subsection (3.1) and by substituting the following:*

(3.1) Where raw gas is delivered in any month under a gas sales contract and is processed in a processing plant by the original buyer and the marketable gas recovered as a result of that processing is sold by him in Alberta,

(a) subsections (1) and (2) do not apply to the gas sales contract,

(b) the price to be paid to the producer for the raw gas so delivered in that month under the gas sales contract shall be an amount equal to the contract field price for the raw gas plus the price adjustment for the month calculated on the Btu equivalent of the marketable gas derived from the raw gas so delivered in that month, less the

4. Section 3 presently reads:

3. The Minister may delegate any of his powers and duties under this Act or the regulations to any officer of the Department of Energy and Natural Resources, any board, commission or other public body created by an Act of the Legislature or any member or employee thereof, except the power to enter into a federal-provincial agreement.

Under the present section 3, the Minister has previously delegated most of his powers and duties under the Act and the regulations to the Commission and the section is repealed as being no longer necessary in view of the amendments in section 3 of this Bill.

5. Section 6, clauses (c), (c.1) and (c.2) presently read:

6. (1) The Lieutenant Governor in Council may make regulations

(c) exempting any class of gas sales contracts from the operation of section 10;

(c.1) providing for any matter referred to in section 10, subsection (3.1);

(c.2) exempting the original buyers under any class of gas sales contracts from the payment of price adjustments;

See the amendments in this Bill to section 10 of the Act.

6. Section 9 presently reads:

9. The purpose and intent of this Part is to provide for the regulation of prices paid for gas under gas sales contracts.

Consequential to the amendment in this Bill to section 10 of the Act.

7. Section 10, subsections (1), (2), (3.1), (4) and (5) presently read:

10. (1) Where a federal-provincial agreement is in effect during any month, the price of gas delivered in that month under a gas sales contract and intended to be removed from Alberta shall for all purposes be deemed to be an amount equal to

(a) the Alberta border price for the month plus the price adjustment for the month

less

(b) the Alberta cost of service with respect to the gas and the movement of the gas from the contract delivery point to the point on the Alberta border at which the gas is or will be removed from Alberta.

(2) Where a federal-provincial agreement is in effect during any month, the price of gas delivered in Alberta in that month under a gas sales contract for consumption within Alberta shall be

(a) an amount equal to

(i) the Alberta border price for the month plus the price adjustment for the month

price adjustment for any of that marketable gas that is purchased by that producer for injection into an underground formation, and

- (c) the price to be paid to the original buyer for the marketable gas shall be the price determined in accordance with subsection (1) or (2), as the case may be, as though the references in those subsections to a gas sales contract were references to a resale contract, less the price adjustment for any of that marketable gas that is purchased by the producer thereof for injection into an underground formation.

(b) by adding the following subsection after subsection (4):

(4.1) Where a second buyer is required to buy marketable gas at the regulated field price by virtue of subsection (3.1), clause (c),

- (a) the second buyer shall not, upon a resale of that gas within Alberta, include the price adjustment in the price of the gas on the resale or otherwise pass on the price adjustment to the buyer of the gas on the resale, but
- (b) the second buyer is entitled to be reimbursed for the price adjustment from moneys in the Natural Gas Pricing Agreement Act Fund in accordance with the regulations under section 16.

(c) by adding the following subsection after subsection (5):

(6) A producer, an original buyer and a second buyer may, with the approval of the Commission, enter into an agreement under which the second buyer is exempted from the payment of price adjustments under subsection (3.1), clause (c).

8. Section 13, clause (b) is amended by striking out the words “and original buyers” and by substituting the words “, original buyers and second buyers”.

less

- (ii) *an amount estimated by the designated officer as the amount that would be the Alberta cost of service with respect to the gas and the movement of the gas from the contract delivery point to a point on the Alberta border specified by the designated officer if the gas were to be moved between those points and pipeline facilities were available for that purpose,*

or

- (b) *an amount equal to the contract field price plus the price adjustment for the month,*

whichever is the lesser.

(3.1) Where all or part of the gas sold under a gas sales contract in any month is resold in Alberta under one or more other contracts,

- (a) *subsections (1) and (2) do not apply to that gas sales contract with respect to that month, and*
- (b) *the price to be paid for the gas under the gas sales contract for the month and the manner in which any price adjustment for that month is to be paid and the persons by whom and to whom it is to be paid, shall be determined in accordance with the regulations.*

(4) Where an original buyer is required to buy gas at the regulated field price by virtue of this section,

- (a) *the original buyer shall not, upon a resale of that gas within Alberta, include the price adjustment in the price of the gas on the resale or otherwise pass on the price adjustment to the buyer of the gas on the resale, but*
- (b) *the original buyer is entitled to be reimbursed for the price adjustment from moneys in the Natural Gas Pricing Agreement Act Fund in accordance with the regulations under section 16.*

(5) A producer and an original buyer may, with the approval of the Minister, enter into an agreement under which the original buyer is exempted from the payment of price adjustments under this section.

The new subsection (3.1) has the effect of regulating the price under a second contract where the original buyer processes raw gas and then sells the marketable gas derived from it. In these cases, the price under the marketable gas contract will be the same as it would be under subsection (1) or (2) in the case of marketable gas sold by the producer. This price includes the "price adjustment" which is then passed along by the original buyer to the producer as part of the price to the producer. In these cases the second buyer is entitled to reimbursement from the Commission for the price adjustment.

The proposed subsections (4.1) and (6) relating to resale contracts are the equivalent of the present subsections (4) and (5) relating to gas sales contracts between producers and original buyers.

8. Section 13(b) presently reads:

13. The purpose and intent of this Part is to provide legislative authority for the following:

9. Section 15 is amended by striking out subsection (9) and by substituting the following:

(9) The Commission shall

(a) after the end of each calendar year prepare a report summarizing the operation of the Fund for the preceding calendar year and a financial statement showing the revenues of and expenditures from the Fund during the same year, and

(b) submit the financial statement to the Provincial Auditor for auditing.

(10) When the report for a calendar year and the financial statement, as audited by the Provincial Auditor, are prepared pursuant to subsection (9), the Commission shall submit them to the Minister who shall lay a copy of them before the Legislative Assembly if it is then sitting and if not, within 15 days after the commencement of the next sitting.

10. Section 16 is amended

(a) *as to subsection (4), clause (c) by striking out the words “and original buyers” and by substituting the words “original buyers and second buyers”,*

(b) *as to subsection (5), clause (a)*

(i) *by striking out the word “and” at the end of subclause (i),*

(ii) *in subclause (ii) by adding after the words “the operation of section 10” the words “, subsections (1) and (2), and”,*

(iii) *by adding after subclause (ii) the following:*

(iii) *eligible second buyers by way of reimbursement to those buyers for the price adjustments required to be paid to them by virtue of the operation of section 10, subsection (3.1), clause (c);*

(c) *as to subsection (5), clauses (b) and (d) by striking out the words “and original buyers” and by substituting the words “, original buyers and second buyers”,*

- (b) the distribution to producers and original buyers on an equitable basis of net revenues accruing to the Crown under this Part.*

See amendments in this Bill to section 10 of the Act.

9. Section 15(7) presently reads:

(7) The Lieutenant Governor in Council may make regulations

- (a) authorizing the Minister to make payments to the producers of the gas from which any constituent was removed pursuant to this section, from moneys in the Fund that are not from time to time required to pay any costs referred to in subsection (6), clause (a);*
- (b) prescribing the conditions on which the payments shall be made and the manner in which they shall be made;*
- (c) governing any other matter incidental to the making of payments under this section.*

The effect of the amendment is to change the fiscal year of the Natural Gas Constituent Proceeds Fund (No. 1) from the Government's fiscal year (ending March 31) to the calendar year. It also gives the responsibility for preparing the annual report to the Commission but leaves with the Minister the responsibility for tabling the report in the Assembly. See also section 11 of this Bill.

10. Section 16, subsections (4)(a), (5)(a)(b), (6) and (7) presently read:

(4) The following shall be paid out of the Fund:

- (a) compensation payable by the Minister pursuant to section 14 with respect to gas delivered to him under that section;*

(5) The Lieutenant Governor in Council may make regulations

- (a) authorizing the Minister to make payments on a monthly basis from moneys in the Fund that are not from time to time required to pay any compensation or costs referred to in subsection (4), clauses (a) and (b), to*
 - (i) eligible producers, and*
 - (ii) eligible original buyers by way of reimbursement to those buyers for the price adjustments required to be paid by them by virtue of the operation of section 10:*
- (b) prescribing the classes of producers and original buyers eligible to receive payments pursuant to regulations under clause (a);*

(6) The regulations under subsection (5)

- (a) shall, as far as practicable, provide for payments to eligible producers and original buyers on an equitable basis;*

(d) *as to subsection (6), clauses (a) and (c) by striking out the words "and original buyers" and by substituting the words ", original buyers and second buyers",*

(e) *by striking out subsection (7) and by substituting the following:*

(7) The Commission shall

(a) after the end of each calendar year prepare a report summarizing the operation of the Fund for the preceding calendar year and a financial statement showing the revenues of and expenditures from the Fund during the same year, and

(b) submit the financial statement to the Provincial Auditor for auditing.

(8) When the report for a calendar year and the financial statement, as audited by the Provincial Auditor, are prepared pursuant to subsection (7), the Commission shall submit them to the Minister who shall lay a copy of them before the Legislative Assembly if it is then sitting and if not, within 15 days after the commencement of the next sitting.

11. (1) *An order made before the commencement of this Act by the Minister of Energy and Natural Resources under section 14 of The Natural Gas Pricing Agreement Act shall be deemed to have been made by the Alberta Petroleum Marketing Commission.*

(2) *Notwithstanding sections 9 and 10 of this Act,*

(a) *section 15, subsection (9) and section 16, subsection (7) of The Natural Gas Pricing Agreement Act, as they stood prior to the commencement of this Act, continue to apply with respect to the report and financial statement for the fiscal year ending March 31, 1977 except that the Alberta Petroleum Marketing Commission has the duty of preparing the report and financial statement for that fiscal year and of submitting it to the Provincial Auditor for auditing, instead of the Minister of Energy and Natural Resources, and*

(b) *the period from April 1, 1977 to December 31, 1977 shall be treated as a calendar year for the purposes of section 15, subsections (9) and (10) and section 16, subsections (7) and (8) of that Act, as enacted by this Act.*

12. *This Act comes into force at 8:00 a.m. on June 1, 1977.*

(b) may authorize the Minister or any other person to do any act in connection with the administration of the regulations;

(c) shall be administered in such a manner that the eligible producers and original buyers receive all of the moneys in the Fund except for those moneys required to pay for compensation or costs referred to in subsection (4), clauses (a) and (b).

(7) The Minister shall

(a) after the end of each fiscal year of the Government prepare a report summarizing the operation of the Fund for the preceding fiscal year and a financial statement showing the revenues of and expenditures from the Fund during the same fiscal year,

(b) submit the financial statement to the Provincial Auditor for auditing, and

(c) when the report for a fiscal year and the financial statement, as audited by the Provincial Auditor, are prepared, lay a copy of them before the Legislative Assembly if it is then sitting and if not, within 15 days after the commencement of the next sitting.

The amendments to subsections (4), (5) and (6) will enable second buyers under resale contracts to reimbursement for price adjustments paid by them under the proposed section 10(3.1)(c): See amendments in this Bill to section 10 of the Act.

The effect of the new subsections (7) and (8) is to change the fiscal year of the Natural Gas Pricing Agreement Act Fund from the Government's fiscal year (ending March 31) to the calendar year. The new subsections also give the responsibility for preparing the annual report to the Commission but leaves with the Minister the responsibility for tabling the report in the Assembly. See also section 11 of this Bill.

11. Transitional provisions.