

1977 BILL 77

Third Session, 18th Legislature, 26 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 77

THE NATURAL GAS PRICE
ADMINISTRATION AMENDMENT ACT, 1977

THE MINISTER OF ENERGY AND NATURAL
RESOURCES

First Reading

Second Reading

Third Reading

Bill 77

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THE NATURAL GAS PRICE ADMINISTRATION 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 Price Administration Act is amended by this Act.*

2 *Section 1 is amended*

(a) *in subsection (1) by adding after clause (b) the following:*

(b.1) "Commission" means the Alberta Petroleum Marketing Commission incorporated under *The Petroleum Marketing Act*;

(b) *by repealing subsection (1)(c) and by substituting the following:*

(c) "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) *in subsection (1)(d) by striking out "means the price of gas under a gas sales contract" and by substituting "means, with reference to a gas sales contract or a resale contract, the price of gas under the contract",*

(d) *in subsection (1)(f) by striking out "(as those expressions are defined in *The Oil and Gas Conservation Act*)",*

Explanatory Notes

1 This Bill will amend chapter 70 of the Statutes of Alberta, 1975 (Second Session). This Act has not yet been proclaimed in force. The purpose of this Bill is to make amendments to it similar to those made to The Natural Gas Pricing Agreement Act in the Spring 1977 sitting. (See Bill 52 of 1977 which became chapter 34 of the Statutes of Alberta, 1977).

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

(b) Section 1 presently reads in part:

1(1) In this Act,

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

(d) “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 or is fixed and determined by an order of the Public Utilities Board under The Gas Utilities Act;

(f) “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;

(m) the “regulated field price” of any gas means the regulated field price of the gas determined in accordance with section 9, subsection (1), (2) and (3) or the regulations under section 5, clause (c.1), whichever applies to the contract.

(4) For the purposes of this Act,

(a) where a producer supplies and 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,

(e) in subsection (1) by adding the following after clause (k):

(k.1) “processing plant” means a processing plant as defined in *The Oil and Gas Conservation Act*;

(f) by repealing subsection (1)(m) and by substituting the following:

(l.1) “raw gas” means raw gas as defined in *The Oil and Gas Conservation Act*;

(m) the “regulated field price” of any gas means

(i) with reference to a gas sales contract other than a contract for the sale of raw gas to which section 9(4) applies, the regulated field price of the gas determined in accordance with section 9(1) to (3),

(ii) with reference to a gas sales contract for the sale of raw gas to which section 9(4) applies, the price to be paid for the raw gas by virtue of section 9(4)(b), or

(iii) with reference to a resale contract, the price to be paid for the gas by virtue of section 9(4)(c);

(n) “resale contract” means a contract for the sale of marketable gas to which section 9(4) applies;

(o) “second buyer” means the person who is the buyer of marketable gas under a resale contract.

(g) by adding the following 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 means of 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

(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 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 5 and 9 of the Act.

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

shall be deemed to be the second buyer of the gas;

(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) In the following provisions “Minister” is struck out wherever it occurs and “Commission” is substituted:

Section 1(1) (a) and (k) and (3);

Section 2;

Section 4;

Section 4.1;

Section 9(2) (a), (3) (a) and (5);

Section 13(a);

Section 14(1);

Section 15;

Section 16(1) to (8);

Section 17(1) to (6).

(2) Section 13(b) is amended by striking out “Crown” and by substituting “Commission”.

(3) Section 15 is amended

(a) in subsection (2) by striking out “Crown in right of Alberta” and by substituting “Commission”,

(b) in subsection (3) and subsection (5)(a) by striking out “Minister’s” wherever it occurs and by substituting “Commission’s”,

(c) in subsection (4) by striking out “, on behalf of the Crown in right of Alberta,”.

(4) Section 16(1) is amended by striking out all that portion of the subsection preceding clause (a) and by substituting the following:

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 responsibility to table annual reports under sections 16 and 17 relating to the Funds under those sections.

16(1) Where the Commission becomes the owner of any gas pursuant to section 15, the Commission

(5) Section 17(4)(a) is amended by striking out “him” and by substituting “the Commission”.

4 Section 3 is repealed.

5 Section 4 is amended by renumbering it as 4(1) and by adding the following:

(2) An order under this section may be made effective as of the first day of the month preceding the month in which the order is made.

6 Section 5 is amended

(a) by repealing clause (c.1),

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

(c.4) exempting any class of resale contracts from the operation of section 9;

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

7 Section 8 is amended by adding “and resale contracts” after “gas sales contracts”.

8 Section 9 is amended

(a) by adding the following after subsection (1):

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.

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. The section is repealed as being no longer necessary in view of the amendments in section 3 of this Bill. See, however, the proposed subsection (1.1) to section 9 being added by section 8 of this Bill.

5 Section 4 presently reads:

4 The Minister may by order determine for any month an amount as the price adjustment for that month for the purposes of this Act.

The proposed subsection (2) is similar in effect to its equivalent in section 5(2) of The Natural Gas Pricing Agreement Act. Under that Act, the price adjustment for gas delivered in any month is normally fixed toward the end of the next succeeding month.

6 Section 5 presently reads in part:

5 The Lieutenant Governor in Council may make regulations

(c) exempting any class of gas sales contracts from the operation of section 9;

(c.1) providing for any matter referred to in section 9, subsection (4);

(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 9 of the Act.

7 Section 8 presently reads:

8 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 9 of the Act.

8 Section 9 presently reads:

(1.1) The Minister may delegate his powers under subsection (1) to the Commission either generally or in a restricted manner.

(b) in subsections (2) and (3) by striking out “of the Minister”,

(c) in subsections (2)(b) and (3)(b) by striking out “Minister” and substituting “order”,

(d) by repealing subsection (4) and substituting the following:

(4) 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) to (3) 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 equivalent heating value of the marketable gas derived from the raw gas so delivered in that month, less the 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 subsections (1) to (3), as though the contract for the sale of the marketable gas were a gas sales contract, less the price adjustment for any of that marketable gas that is purchased by the producer thereof for injection into an underground formation.

(e) by adding the following 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 (4).

9(1) *The Minister may by order prescribe for any month the price of any gas*

- (a) at the point of production, extraction or recovery of the gas, or*
- (b) at the contract delivery point of the gas, or*
- (c) at any other point in Alberta,*

and the price so prescribed plus the price adjustment for the month is the regulated field price of the gas for the month at the point described in the order.

(2) *Where an order of the Minister under subsection (1) prescribes a price for gas for any month at a point upstream from the contract delivery point of the gas,*

(a) the Minister shall determine the Alberta cost of service with respect to the gas and the movement of the gas from the upstream point to the contract delivery point, and

(b) the aggregate amount of the price prescribed by the Minister under subsection (1), the price adjustment for the month and the Alberta cost of service determined under clause (a) is the regulated field price of the gas for the month at the contract delivery point.

(3) *Where an order of the Minister under subsection (1) prescribes the price of gas for any month at a point in Alberta downstream from the contract delivery point of the gas,*

(a) the Minister shall determine the Alberta cost of service with respect to the gas and the movement of the gas from the contract delivery point to the downstream point, and

(b) the aggregate amount of the price prescribed by the Minister under subsection (1) and the price adjustment for the month minus the Alberta cost of service determined under clause (a) is the regulated field price for the month at the contract delivery point.

(4) *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), (2) and (3) 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.

(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 (1.1) allows the Minister to delegate his pricing powers to the Commission. Subsections (2) and (3) are amended so that they will be referable to orders under subsection (1) whether made by the Minister or the Commission.

The proposed subsection (6) relating to resale contracts is the equivalent of the present subsection (5) relating to gas sales contracts.

9 Section 10 presently reads:

(a) in subsection (1) by adding “or resale contract” after “gas sales contract”, and

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

(3) Where a second buyer is required to buy marketable gas at the regulated field price by virtue of section 9(4) and this section,

(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 Price Administration Act Fund in accordance with the regulations under section 17.

10 Section 11 is amended by adding “or resale contract” after “gas sales contract” wherever it occurs.

11 Section 13(b) is amended by striking out “and original buyers” and by substituting “, original buyers and second buyers”.

12 Section 16(9) is repealed and the following is substituted:

(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(1) Where the contract field price of gas delivered in any month under a gas sales contract is different from the regulated field price of the gas for the month at the contract delivery point, the price of gas delivered under the contract during the month shall for all purposes be deemed to be the regulated field price for the month at the contract delivery point and not the contract field price.

(2) Where an original buyer is required to buy gas at the regulated field price by virtue of section 9 and 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 Price Administration Act Fund in accordance with the regulations under section 17.

10 Section 11 presently reads:

11 The regulated field price at the contract delivery point determined with respect to any gas sales contract for any month applies with respect to that contract for that month notwithstanding

(a) anything in the gas sales contract, or

(b) any award under The Arbitration Act or any agreement that redetermines the price under a gas sales contract, or

(c) any order of the Public Utilities Board under The Gas Utilities Act.

11 Section 13(b) presently reads:

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

(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 9 of the Act.

12 Section 16(9) presently reads:

(9) 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

(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.

13 Section 17 is amended

(a) in subsection (4)(c) by striking out “and original buyers” and by substituting “original buyers and second buyers”,

(b) in subsection (5)(a)(ii) by adding “and eligible second buyers” after “eligible original buyers”,

(c) in subsection (5)(a) by striking out “and” at the end of subclause (i), by striking out subclause (ii) and by substituting the following:

(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 9(1) to (3), and

(iii) eligible second 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 9(4);

(d) in subsection (5)(b) and (d) by striking out “and original buyers” and by substituting “, original buyers and second buyers”,

(e) in subsection (6)(a) and (c) by striking out “and original buyers” and by substituting “, original buyers and second buyers”,

(f) by repealing 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.

(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 effect of the amendment is to change the fiscal year of the Natural Gas Constituent Proceeds Fund (No. 2) 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.

13 Section 17(4)(c), (5), (6) and (7) presently read:

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

(c) moneys paid to producers and original buyers pursuant to the regulations under subsection (5).

(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 9;

(b) prescribing the classes of producers and original buyers eligible to receive payments pursuant to clause (a);

(c) prescribing the conditions on which the payments shall be made and the manner in which they shall be made;

(d) governing any other matter incidental to the making of payments to producers and original buyers under this section.

(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;

(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 eligible 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,

(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.

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

(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 entitle second buyers under resale contracts to reimbursement for price adjustments paid by them under section 9.

The effect of the new subsections (7) and (8) is to change the fiscal year of the Natural Gas Price Administration 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.