

1980 BILL 25

Second Session, 19th Legislature, 29 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 25

THE PUBLIC UTILITIES BOARD AMENDMENT ACT, 1980

THE ATTORNEY GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 25

1980

THE PUBLIC UTILITIES BOARD AMENDMENT ACT, 1980

(Assented to _____, 1980)

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

1 *The Public Utilities Board Act is amended by this Act.*

2 *The following is added after section 2:*

2.1 An application to the Board under this Act includes a complaint in writing made to the Board.

3 *Section 7 is amended by adding the following after subsection (2):*

(3) The chairman

(a) is the chief executive officer of the Board, and

(b) subject only to those directions or decisions that are given or made by a resolution of the Board, has the power to act on behalf of the Board in respect of any thing relating to the administrative affairs of the Board.

4 *Section 13 is amended*

(a) *in subsection (1) by striking out "Subject to the approval of the Lieutenant Governor in Council, the Board" and substituting "The Board", and*

(b) *in subsection (2) by striking out "the Lieutenant Governor in Council" and substituting "the Board".*

5 *Section 19 is repealed.*

Explanatory Notes

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

2 Application to the Board includes a complaint to the Board.

3 Section 7 presently reads:

7(1) One member of the Board shall be appointed by the Lieutenant Governor in Council to be chairman of the Board.

(2) The member so appointed is entitled to hold the position of chairman so long as he continues to be a member of the Board.

4 Section 13 presently reads:

13(1) Subject to the approval of the Lieutenant Governor in Council, the Board may from time to time appoint one or more experts or persons having special technical or other knowledge to inquire into and report to the Board in respect of any matter before the Board or in respect of which the Board deems it necessary to have information for the proper carrying out of its duties under this Act.

(2) A person appointed by the Board pursuant to this section shall be paid such remuneration as may be prescribed by the Lieutenant Governor in Council.

5 Section 19 presently reads:

19 Where the Board appoints or directs any person not being a member of its staff to perform any service required by this Act, that person shall be paid therefor such sum for services and expenses as the Lieutenant Governor in Council may determine.

6 Section 27 is amended by striking out “in the month of January in each year” and substituting “in each year on or before March 31”.

7 Section 36(1) is amended by striking out “, complaint”.

8 Section 48(1) is amended by striking out “the chairman and” and substituting “the chairman of the Board, the”.

9 Section 50(1) is amended by striking out “, complaint”.

10 Section 51 is amended by striking out “a complaint to the Board” and substituting “an application to the Board alleging”.

11 Section 58 is amended by striking out “Supreme Court of Alberta” and substituting “Court of Queen’s Bench”.

12 Section 70.1 is repealed and the following is substituted:

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

(a) that any thing that is a public utility by virtue of section 2(j)(i), (ii) or (iii) is not a public utility,

(b) that a person is not for the purposes of this Act an owner of a public utility, or

(c) that a provision of this Act does not apply to

(i) a public utility,

6 Changes the date that the annual report is submitted to Executive Council from January 31 to March 31.

7 Removes a reference to “complaint”.

8 Section 48(1) presently reads:

48(1) A document purporting to be signed by the chairman and secretary of the Board or by a single member of the Board, or by any officer of the Board, shall, without proof of the signature, be admitted in evidence as prima facie proof that the document was duly signed, and is sufficient notice to a company and all parties interested, if served in the manner hereinbefore provided for service of notice, that the document was duly signed and issued by the Board or an officer of the Board, as the case may be.

9 Removes a reference to “complaint”.

10 Section 51 presently reads:

51 Where the Attorney General, a municipality or any party interested, makes a complaint to the Board that any person has unlawfully done or unlawfully failed to do, or is about unlawfully to do, or unlawfully not to do, something relating to a matter over which the Board has jurisdiction under this or any other Act, and prays that the Board make some order in the premises, the Board shall, after hearing such evidence as it thinks fit to require, make such order as it thinks proper under the circumstances.

11 Corrects a reference.

12 Section 70.1(1) presently reads:

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.

(ii) an owner of a public utility, or

(iii) goods or services offered or provided by a public utility.

(2) During the time that a declaration made under subsection (1)(c) remains in force, the provision in respect of which that declaration was made does not apply, as the case may be, to

(a) the public utility,

(b) the owner of the public utility, or

(c) goods or services offered or provided by the public utility.

(3) An order of the Board made under subsection (1) shall be subject to those terms and conditions prescribed by the Board or imposed by an order of the Lieutenant Governor in Council.

(4) The Board,

(a) on its own initiative or on the application of a person having an interest, may, after giving notice and conducting a hearing, or

(b) on the order of the Lieutenant Governor in Council, shall

vary or rescind in whole or in part an order made by the Board under this section.

13 Section 71 is amended by striking out “complaint” wherever it occurs and substituting “application”.

14 Section 75(2) is amended by striking out “complaint of any municipality” and substituting “application of a municipality alleging”.

(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.

13 Removes reference to “complaint” and replaces it with a reference to “application”.

14 Section 75(2) presently reads:

(2) Upon the complaint of any municipality that an owner of a public utility doing business in the municipality has failed to extend his services to any part of the municipality, the Board, after hearing the parties and their witnesses and making such inquiry into the matter as it sees fit, may order the extension of the services and specify the conditions under which the extension is to be done, including the cost of all necessary works which it may apportion between the owner of the public utility and the municipality in any manner it deems equitable.

15 Section 79(1) is amended by striking out “complaint in writing” and substituting “the application of a person having an interest”.

16 Section 81 is amended

(a) by renumbering subsection (1) as section 81 and in the renumbered section 81 by striking out “complaint in writing” and substituting “the application of a person having an interest”,

(b) by repealing subsections (2), (3) and (4) and substituting the following:

81.01(1) In fixing just and reasonable rates, tolls or charges or schedules of them, to be imposed, observed and followed thereafter by an owner of a public utility, the Board shall determine a rate base for the property of the owner of the public utility used or required to be used to provide service to the public within Alberta and upon determining a rate base it shall fix a fair return on the rate base.

(2) In determining a rate base under this section, the Board shall give due consideration

(a) to the cost of the property when first devoted to public use, to prudent acquisition cost to the owner of the public utility, less depreciation, amortization or depletion in respect of each, and

(b) to necessary working capital.

(3) In fixing the fair return that an owner of a public utility is entitled to earn on the rate base, the Board shall give due consideration to all those facts as in its opinion are relevant.

(c) by renumbering subsection (5) as section 81.02, and

(d) by renumbering subsection (6) as section 81.03 and in the renumbered section 81.03 by striking out “, under this section,”.

17 Section 81.1(2) is amended by striking out “complaint” wherever it occurs and substituting “application”.

15 Section 79(1) presently reads:

79(1) The Board may, upon its own initiative, or upon complaint in writing, investigate any matter concerning a public utility.

16 The present section 81 is converted into three separate sections.

Section 81 presently reads in part:

81(1) The Board, either upon its own initiative or upon complaint in writing, may by order in writing, which shall be made after giving notice to and hearing the parties interested,

(2) In fixing just and reasonable rates, tolls or charges, or schedules thereof, to be imposed, observed and followed thereafter by an owner of a public utility, the Board shall determine a rate base for the property of the owner that is used or required to be used in his service to the public within Alberta and fix a fair return thereon.

(3) In determining a rate base under subsection (2), the Board shall give due consideration

(a) to the cost of the property when first devoted to public use, to prudent acquisition cost to the owner, less depreciation, amortization or depletion in respect of each, and

(b) to necessary working capital.

(4) In fixing under subsection (2) the fair return that an owner of a public utility is entitled to earn on the rate base, the Board shall give due consideration to all such facts as in its opinion are relevant.

(6) In fixing just and reasonable rates, tolls or charges or schedules thereof, under this section, to be imposed thereafter by the owner of a public utility, the Board shall not fix any rate, toll or charge or schedules thereof in such a manner that the rate to the consumers or any class of consumers may be increased from year to year or other period without a further application to and order of the Board thereon.

17 Removes the reference to “complaint” and replaces it with a reference to “application”.

18 Section 87 is amended

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

(iii) any contract for consolidation, amalgamation or merger,

(b) by adding the following after subsection (1)(f):

(f.1) without the approval of the Board, capitalize any lease, or

(c) in subsection (2)(a) by adding “or was not required to be approved by the Board by reason of an existing declaration made under section 70.1” after “approved by the Board”, and

(d) in subsection (2)(b) by adding “or was not required to be approved or authorized by the Board by reason of an existing declaration made under section 70.1” after “approved or authorized by the Board”.

19 Section 89(2) is amended by striking out “written complaint” and substituting “application”.

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

18 Section 87 presently reads in part:

87(1) No owner of a public utility shall

(f) capitalize

(i) its right to exist as a corporation, or

(ii) any right, franchise or privilege in excess of the amount actually paid to the Province or any municipality as the consideration therefor, exclusive of any tax or annual charge, or

(iii) any contract for consolidation, merger or lease,

(2) Notwithstanding subsection (1), the approval, authority, permission or consent of the Board is not required in or with respect to

(a) the issue of any shares of its capital stock by an owner of a public utility under the exercise of any optional right of conversion attaching to any shares, stocks, bonds, debentures, debenture stock or other evidence of indebtedness, the issue of which has previously been approved by the Board, or

(b) a right of entry, sale, disposition or other proceedings for the enforcement of a mortgage or charge created by trust deed or other instrument or security, in the enforcement of, or pursuant to, the security thereby constituted or in the exercise of the rights or remedies thereby granted or otherwise available at law, if such trust deed or other instrument or security was approved or authorized by the Board, or

19 Removes reference to “written complaint” and replaces it with a reference to “application”.