

1998 BILL 27

Second Session, 24th Legislature, 47 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 27

ELECTRIC UTILITIES AMENDMENT ACT, 1998

THE MINISTER OF ENERGY

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 27

1998

ELECTRIC UTILITIES AMENDMENT ACT, 1998

(Assented to _____, 1998)

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

Amends SA
1995 cE-5.5

1 The *Electric Utilities Act* is amended by this Act.

2 Section 1 is amended

(a) in subsection (1)

**(i) by renumbering clause (a) as clause (a.4) and
adding the following before clause (a.4):**

(a) “affiliate” has the meaning given to it in the
Business Corporations Act;

(a.1) “affiliated retailer” means a retailer that is an
affiliate of the owner of an electric distribution
system;

(a.2) “balancing pool” means the balancing pool
established by the Power Pool Council pursuant
to the regulations;

(a.3) “billing” means the preparation of an account
for all charges arising from the generation,
transmission and distribution of electricity to a
customer, including taxes, franchise fees and
balancing pool credits or charges;

(ii) by adding the following after clause (b):

(b.1) “customer” means a person purchasing
electricity for that person’s own use;

Explanatory Notes

- 1 Amends chapter E-5.5 of the Statutes of Alberta, 1995.
- 2 Adds new definitions. Section 1(1)(c), (h), (i) and (x) presently read:
1(1) In this Act,
 - (c) *“dispatch” means a direction from a person appointed under section 9(1)(c)*
 - (h) *“eligible person” means any of the following:*
 - (i) *the owner of a generating unit;*
 - (ii) *the owner of an electric distribution system;*
 - (iii) *the Transmission Administrator;*
 - (iv) *an importer of electric energy to Alberta or an exporter of electric energy from Alberta if and to the extent that the arrangements governing the exchange of electric energy and system support services between the interconnected electric system in Alberta and electric systems in jurisdictions bordering Alberta allow for importers and exporters;*
 - (i) *“entitled electric distribution system” means an electric distribution system that is owned by any of the following:*
 - (i) *Alberta Power Limited;*
 - (ii) *TransAlta Utilities Corporation;*
 - (iii) *the City of Calgary;*

(b.2) “customer class” means a group of customers who have similar characteristics relating to

(i) the amount of electricity they consume, and

(ii) the cost of providing electricity services to them;

(b.3) “direct access customer” means a customer whose consumption of electricity is measured by a time-of-use meter and who

(i) receives electricity from the interconnected electric system at a voltage level of 25 000 volts or more,

(ii) is able to increase or decrease its consumption of electric energy or system support services within 60 minutes of receiving a dispatch, or

(iii) meets the requirements set out in the regulations;

(iii) in clause (c) by striking out “or” at the end of subclause (i), adding “or” at the end of subclause (ii) and adding the following after subclause (ii):

(iii) to a customer to increase or decrease the amount of electric energy or system support services to be consumed by the customer within a specified period;

(iv) by adding the following after clause (c):

(c.1) “distribution access service” means the service required to transport electricity to customers by means of an electric distribution system;

(v) by adding the following after clause (g):

(g.1) “electricity services” means the services associated with the provision of electricity to customers, including

(i) the exchange of electric energy through the power pool,

(ii) making financial arrangements to manage financial risk associated with the pool price,

(iv) *the City of Edmonton;*

(v) *the City of Lethbridge;*

(vi) *the City of Red Deer;*

and is subject to the obligations and entitled to the entitlements set out in Part 4;

(x) *“regulated generating unit” means a generating unit listed in the Schedule*

(i) as it exists on the coming into force of this Act, or

(ii) as modified in accordance with regulations made under section 42,

until it is removed from regulated service;

- (iii) distribution access service,
 - (iv) system access service,
 - (v) system support services,
 - (vi) billing,
 - (vii) metering,
 - (viii) maintaining information systems, and
 - (ix) any other services specified in the regulations;
- (vi) in clause (h) by adding the following after subclause (iv):**
- (v) the owner of an industrial system;
 - (vi) the purchaser of a power purchase arrangement under Part 4.1;
 - (vii) a direct access customer;
- (vii) in clause (i) by repealing subclauses (iii) and (iv) and substituting the following:**
- (iii) Enmax Power Corporation;
 - (iv) Edmonton Power Inc.;
- (viii) by adding the following after clause (o):**
- (o.1) “information systems” means systems for collection and dissemination of data that identify individual customer consumption of electricity from the interconnected electric system;
- (ix) by adding the following after clause (p):**
- (p.1) “metering” means the purchase, installation, operation and reading of a meter that measures and records the amount of electricity consumed by a customer;
- (x) by repealing clause (x) and substituting the following:**
- (x) “regulated generating unit” means
 - (i) a generating unit listed in Part 1 of the Schedule

- (A) as the generating unit existed on the coming into force of this Act, or
- (B) as the generating unit is modified in accordance with regulations made under section 71(1)(f.2), or
- (ii) an isolated regulated generating unit listed in Part 2 of the Schedule
 - (A) as the generating unit existed on December 7, 1995, or
 - (B) as the generating unit is modified in accordance with regulations made under section 71(1)(f.2),

until Parts 4 and 5 cease to apply to the generating unit;

- (x.1) “retailer” means a person who sells or provides electricity services directly to customers;

(xi) by adding the following after clause (cc):

- (cc.1) “time-of-use meter” means a meter that measures, at intervals of between 15 and 60 minutes, the amount of electricity consumed and that satisfies the standards set under the *Electricity and Gas Inspection Act* (Canada) and the *Weights and Measures Act* (Canada) for revenue collection based on time-of-use consumption;

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

(3) The definition in subsection (1)(dd) applies to tariffs that have effect in 1996 and 1997, but for the purposes of tariffs that have effect in and after 1998 the definition in subsection (1)(dd) is amended to the extent that subclause (v) includes all equipment in a substation that is used to transmit electric energy

- (a) from the low voltage terminal referred to in subsection (1)(dd), and
- (b) to electric distribution system lines that exit the substation and are energized at 25 000 volts or less.

3 Section 3 is amended

(a) **in subsection (2) by adding** “or any Act that amends this Act” **after** “this Act”;

(b) **by repealing subsection (3) and substituting the following:**

(3) An agreement that is existing when this Act or any Act that amends this Act comes into force and that is expressly or by necessary implication inconsistent with this Act or the Act that amends this Act is deemed to be amended to the extent necessary to make the agreement consistent with this Act or the Act that amends this Act.

4 Section 4 is amended by striking out “of this Act” **and substituting** “or the implementation of this Act or amendments to this Act or the regulations made under this Act”.

5 Section 6 is amended

(a) **by repealing clause (a) and substituting the following:**

(a) to establish a framework that provides

(i) for the sharing among all consumers of electricity in Alberta of the benefits and responsibilities for costs associated with electricity produced by the generating units listed in the Schedule, and

(ii) after December 31, 2000, for the replacing of the statutory payments and entitlements under Part 4 and the regulation of the tariffs of owners of regulated generating units under Part 5, by which the benefits and responsibilities referred to in subclause (i) are shared among all consumers of electricity in Alberta, with the power purchase arrangements and financial instruments described in Part 4.1,

(b) **by striking out “and” at the end of clause (d) and adding the following after clause (d):**

(d.1) to establish a framework that enables customers to exercise a preference for electricity services in a competitive market, and

3 Section 3(2) and (3) presently read:

(2) Agreements existing when this Act comes into force and relating to the generation, transmission, distribution, exchange, purchase or sale of electricity are preserved, unless subsection (3) applies.

(3) An agreement that is existing when this Act comes into force and is expressly or by necessary implication inconsistent with this Act is deemed to be amended to the extent necessary to make the agreement consistent with this Act.

4 Section 4 presently reads:

4 No action may be brought against the Crown claiming compensation for any real or perceived loss or damage resulting from the coming into force of this Act.

5 Section 6(a) presently reads:

6 The purposes of this Act are

(a) to establish a framework that replaces the Electric Energy Marketing Act so that averaging of generation costs is phased out as regulated generating units are removed from regulated service and new arrangements are made so that

(i) the benefits of and responsibilities for costs associated with electricity produced by regulated generating units are shared by all consumers of electricity in Alberta, and

(ii) decisions about investing in a regulated generating unit or removing a regulated generating unit or associated property from regulated service are in the interests of all consumers of electricity in Alberta and in the interests of the owner of the regulated generating unit,

Continuation
of Power Pool
Council

6 Section 7 is repealed and the following is substituted:

7(1) The Power Pool Council is continued.

(2) The Power Pool Council is a corporation consisting of the members appointed by the Minister in accordance with subsection (3).

(3) The Minister shall appoint as members of the Power Pool Council individuals who, in the opinion of the Minister,

(a) will enhance the performance of the Power Pool Council in carrying out its duties and functions, and

(b) are independent of persons having a material interest in the Alberta electric industry.

(4) The Chair designated under section 7.2(1) may provide the Minister with the names of persons recommended for appointment as members of the Power Pool Council, but the Minister is not bound to appoint members from among the names recommended.

(5) The Power Pool Council is not a Provincial corporation for the purposes of the *Financial Administration Act*, the *Auditor General Act* or any other Act.

6 Section 7 presently reads:

7(1) There is established a corporation called the “Power Pool Council”, consisting of the following members:

- (a) Alberta Power Limited;*
- (b) TransAlta Utilities Corporation;*
- (c) the City of Calgary;*
- (d) Edmonton Power Inc.;*
- (e) the City of Lethbridge;*
- (f) the City of Red Deer;*
- (g) the City of Medicine Hat;*
- (h) the Alberta Federation of REA's Ltd.;*
- (i) the Industrial Power Consumers Association of Alberta;*
- (j) the Independent Power Producers Society of Alberta;*
- (k) the corporations, municipalities, organizations and individuals appointed under subsection (2).*

(2) The Lieutenant Governor in Council shall appoint as members of the Power Pool Council such corporations, municipalities, organizations or individuals as may, in the opinion of the Minister, be necessary or desirable to ensure that the membership of the Power Pool Council is representative of persons having a material interest in the operation of the power pool.

(3) Each corporation, municipality and organization that is a member of the Power Pool Council shall nominate an individual to serve as its representative on the Power Pool Council and may nominate different individuals for that purpose from time to time.

(4) The members of the Power Pool Council shall co-operate with each other in good faith to enable and assist the Power Pool Council to carry out its duties and functions.

(5) No member of the Power Pool Council nor any individual who serves as a representative of a member of the Power Pool Council under subsection (3) is liable for any act or omission of a member, a representative of a member, the Power Pool Council or a person appointed under section 9(1)(b) or (c) done or purportedly done under this or any other enactment.

7 The following is added after section 7:

Duty of
members of
Power Pool
Council

7.1 Each member of the Power Pool Council shall, in carrying out any duty or function under this Act or the regulations,

- (a) act honestly, in good faith and in the public interest,
- (b) avoid conflicts of interest, and
- (c) exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances.

Chair,
Secretary and
Vice-chair

7.2(1) The Minister shall designate one of the members of the Power Pool Council as the Chair of the Power Pool Council.

(2) The Chair

- (a) shall designate one of the members of the Power Pool Council, other than the member designated as the Market Surveillance Administrator under section 9.1(2), as the Vice-chair of the Power Pool Council, and
- (b) shall appoint an individual to act as the Secretary of the Power Pool Council.

(3) The remuneration payable to the Chair, the Vice-chair, the other members of the Power Pool Council and the Secretary must be

- (a) set by the Power Pool Council, and
- (b) approved by the Minister.

Duties of the
Secretary

7.3(1) The Secretary is responsible for carrying out the duties imposed on the Secretary by this Act, the regulations, any other Act or the Power Pool Council.

(2) The Secretary may

- (a) accept service of all notices and other documents on behalf of the Power Pool Council,
- (b) when required, provide to the Board the record of proceedings held before the Power Pool Council, and

(6) The Power Pool Council is not a Provincial corporation for the purposes of the Financial Administration Act, the Auditor General Act or any other Act.

7 New sections relating to Power Pool Council.

Sitting in
panels

(c) certify any decision made by the Power Pool Council or any document, record or thing used in connection with a hearing or other proceeding.

(3) A certificate purporting to be signed by the Secretary is, without proof of the office or signature, admissible in evidence, so far as it is relevant, for all purposes in any action, hearing, prosecution or other proceeding.

7.4(1) The Chair of the Power Pool Council may designate 3 or more members of the Power Pool Council to sit as a panel of the Power Pool Council and may direct the panel to conduct any hearing, review, inquiry or other proceeding that the Power Pool Council itself could conduct under this or any other Act.

(2) A majority of the members of a panel of the Power Pool Council constitutes a quorum at a sitting of the panel.

(3) A decision or other action made or taken at a sitting of a panel of the Power Pool Council at which a quorum is present is the decision or action of the Power Pool Council and binds all members of the Power Pool Council.

(4) A panel of the Power Pool Council has, with respect to its duties, the same jurisdiction as that of the Power Pool Council and may exercise and perform all the powers of the Power Pool Council under this or any other Act with respect to a hearing, review, inquiry or other proceeding that it is directed to conduct and for that purpose any reference in this or any other Act to the Power Pool Council is deemed to be a reference to a panel of the Power Pool Council.

8 Section 8 is amended by renumbering it as section 8(1) and by adding the following after subsection (1):

(2) The Power Pool Council may, in respect of matters that are not being dealt with by a panel of the Power Pool Council,

(a) determine the number of its members that constitutes a quorum at meetings of the Power Pool Council, and

(b) establish rules or procedures respecting the number of its members that is required to carry out any act in order for that act to bind all of its members and to constitute an act of the Power Pool Council.

8 Section 8 presently reads:

8 The Power Pool Council has the power to carry out any duty or function given to it under this or any other enactment.

(3) The Power Pool Council may make by-laws governing the management and administration of its affairs.

(4) The *Regulations Act* does not apply to a by-law made under subsection (3).

9 Section 9 is amended by adding the following after subsection (4):

(5) Despite subsection (4), the Power Pool Council may recover expenditures for capital assets over a period comparable to the useful life of that asset.

10 The following is added after section 9:

Surveillance of
electricity
market

9.1(1) The Power Pool Council shall, in accordance with the regulations, carry out surveillance in respect of any activity related to the engaging in, or proposing to engage in, the generation, transmission, distribution, exchange, purchase or sale of electricity, including the surveillance of

- (a) electricity exchanges on the tie lines connecting the interconnected electric system in Alberta with electric systems in jurisdictions bordering Alberta,
- (b) any aspect of the relationship between the owner of an electric distribution system and its affiliated retailers,
- (c) any aspect of the relationship between the owner of an electric distribution system and retailers other than its affiliated retailers,
- (d) any aspect of arrangements, information sharing and decisions relating to eligible persons exchanging or wishing to exchange electric energy through the power pool, and
- (e) any other activity specified in the regulations

to determine whether or not

- (f) the results of that activity are efficient and equitable,
- (g) the persons carrying out that activity are complying with this Act, the regulations, the rules of the power pool and any arrangements entered into under this Act or the regulations, and

9 Section 9(4) presently reads:

(4) The Power Pool Council shall ensure that the power pool is operated so that no profit or loss results on an annual basis from its operation.

10 Adds sections dealing with market surveillance.

- (h) the rules, guidelines and conventions that govern the Alberta electric industry are sufficient to discourage eligible persons from employing anti-competitive practices in that industry.

(2) The Minister shall designate one of the members of the Power Pool Council as the Market Surveillance Administrator.

(3) The Market Surveillance Administrator shall carry out the surveillance duties referred to in subsection (1), but the Power Pool Council is not precluded from carrying out those duties or exercising any other duty or function described in sections 9.2, 9.3 and 9.4.

Investigation

9.2(1) The Market Surveillance Administrator shall investigate any matter that may be the subject of surveillance under section 9.1

- (a) that is brought to the attention of the Market Surveillance Administrator by way of a referral or complaint from any source, or
- (b) that the Market Surveillance Administrator decides on his own initiative to investigate.

(2) To carry out his functions under this section, the Market Surveillance Administrator may make use of the services of

- (a) the staff of the Power Pool Council,
- (b) the person or persons appointed under section 9(1)(b) and (c), if they are not staff of the Power Pool Council, and
- (c) persons having special technical or other knowledge or skills.

Authority of Market Surveillance Administrator

9.3 For the purpose of carrying out his functions under sections 9.1 and 9.2, the Market Surveillance Administrator has the powers set out in the regulations relating to the right to enter any premises or place, to compel the production of information, to copy information and to make reasonable inquiries of any person.

Recommendations

9.4 On the completion of each investigation under section 9.2, the Market Surveillance Administrator shall

- (a) make any recommendations to the Power Pool Council that the Market Surveillance Administrator considers appropriate, and

Authority of
Power Pool
Council

- (b) prepare a report to the Power Pool Council that sets out
 - (i) the matter that was investigated,
 - (ii) whether the matter came to the attention of the Market Surveillance Administrator by way of a referral or complaint or whether the Market Surveillance Administrator decided on his own initiative to investigate the matter,
 - (iii) the recommendations and the reasons for the recommendations, and
 - (iv) any other information specified in the regulations.

9.5(1) The Power Pool Council may, in accordance with the regulations, do any or all of the following:

- (a) accept, modify or reject a recommendation of the Market Surveillance Administrator;
- (b) hold a hearing whether or not the Market Surveillance Administrator recommends it;
- (c) impose fines or other sanctions set out in the regulations.

(2) The Power Pool Council shall refer a recommendation of the Market Surveillance Administrator or any other matter that is the subject of a report under section 9.4(b)

- (a) to the Transmission Administrator,
- (b) to the Board,
- (c) to the Competition Bureau under the *Competition Act* (Canada), or
- (d) to any other entity specified in the regulations

in accordance with the regulations.

(3) Where a recommendation of the Market Surveillance Administrator or any other matter that is the subject of a report under section 9.4(b) is related to a matter dealt with in section 9, 11 or 12, the Power Pool Council shall refer the recommendation or matter to the Board.

Interim
decision

9.6(1) Where

- (a) a recommendation or other matter that is the subject of a report under section 9.4(b) has been referred under section 9.5(2), or
- (b) the Power Pool Council decides to hold a hearing relating to a recommendation or other matter that is the subject of a report under section 9.4(b)

and no decision will be immediately available resulting from the referral or hearing, the Power Pool Council may before the decision is available make an interim decision relating to the recommendation or other matter.

(2) An interim decision may be made under subsection (1) only if in the opinion of the Power Pool Council the failure to make the interim decision could result in

- (a) significant harm to the efficiency or equity of exchanges of electric energy through the power pool, or
- (b) a compromise to the safe and reliable operation of the interconnected electric system.

(3) The Power Pool Council must give the Minister, the Board and persons directly affected at least 5 days' notice, excluding Saturdays, Sundays and holidays, of the Power Pool Council's intention to make an interim decision.

(4) An interim decision remains in force until

- (a) the entity referred to in section 9.5(2), or the Power Pool Council at the conclusion of a hearing, makes a decision or order or takes some other action that has the effect of superseding the interim decision, or
- (b) the Minister makes a regulation that has the effect of superseding the interim decision,

whichever occurs first.

Decisions of
Power Pool
Council

9.7(1) The Power Pool Council may make any order or decision it considers appropriate relating to a matter in respect of which a hearing has been conducted.

(2) The Market Surveillance Administrator shall not sit as a member of the Power Pool Council or of a panel of the Power Pool Council when a recommendation of the Market

Surveillance Administrator is being considered under subsection (1).

Appeal

9.8 A decision of the Power Pool Council may be appealed to the Board in accordance with the regulations.

Regulatory
forbearance

9.9(1) The Power Pool Council or the Market Surveillance Administrator may make a determination to refrain, in whole or in part and conditionally or unconditionally, from the exercise of any power or the performance of any duty or function under this Part, where the Power Pool Council or the Market Surveillance Administrator, as the case may be, finds as a question of fact that a person, product, class of products, service or class of services is or will be subject to competition sufficient to protect the public interest.

(2) The Power Pool Council and the Market Surveillance Administrator shall not make a determination to refrain under subsection (1) in relation to a person, product, class of products, service or class of services if the Power Pool Council and the Market Surveillance Administrator find as a question of fact that to refrain would be likely to impair unduly the establishment or continuation of a competitive market for that person, product, class of products, service or class of services.

Duty to report

9.91(1) The Power Pool Council shall prepare and deliver to the Minister an annual report containing a summary of the activities of the Power Pool Council under sections 9.1 to 9.9 in the year.

(2) The Power Pool Council must

- (a) provide a copy of each order or decision under section 9.6 or 9.7 to the Minister, and
- (b) make all of its orders and decisions under section 9.6 or 9.7 available to the public.

11 The following is added after section 12:

Liability
protection

12.1(1) In this section,

- (a) “power pool act” means any act or omission done or purportedly done by a power pool person in carrying out
 - (i) duties and functions under this Act, or

11 New section adding a liability protection section.

- (ii) any other duties and functions relating to the power pool;
- (b) “power pool person” means
 - (i) the Power Pool Council,
 - (ii) each member of the Power Pool Council,
 - (iii) each officer and employee of the Power Pool Council,
 - (iv) each person that acts at the direction of, or is an agent or contractor of, the Power Pool Council,
 - (v) each affiliate of a person referred to in subclause (iv),
 - (vi) each person appointed under section 9(1)(b) or (c),
 - (vii) each officer and employee of the persons appointed under section 9(1)(b) or (c),
 - (viii) each person that acts at the direction of, or is an agent or contractor of, a person appointed under section 9(1)(b) or (c), and
 - (ix) each affiliate of a person referred to in subclause (viii).
- (2) No action lies against a power pool person, and a power pool person is not liable,
 - (a) for a power pool act carried out in good faith by that power pool person, or
 - (b) for a power pool act by any other power pool person whether carried out in good faith or not.
- (3) Where
 - (a) a legal action has been commenced against a power pool person for a power pool act, and
 - (b) the power pool person is, as a result of the operation of subsection (2) or otherwise, not liable,

the Power Pool Council shall indemnify that power pool person for, and pay to that power pool person, all of that power pool person’s costs of defending the legal action,

including all reasonable legal expenses and legal fees on a solicitor and client basis, and the amounts so paid to or on behalf of that power pool person shall be recovered by the Power Pool Council through charges fixed in accordance with section 11(c) and payable by eligible persons exchanging electric energy through the power pool.

(4) This section is repealed on February 26, 2000, unless before that date a regulation is made under section 71(1)(f.1).

12 Section 16 is amended by repealing subsection (2) and substituting the following:

(2) The Board shall not deal with a complaint under subsection (1)

(a) if the complainant

(i) has not attempted to negotiate a settlement of the matter under Part 6, or

(ii) has attempted to negotiate a settlement of the matter under Part 6, but

(A) a bad faith certificate has been issued to the complainant pursuant to section 66(f) and has not been withdrawn, and

(B) the Board is of the view that the reasons stated in the bad faith certificate justify the Board's not hearing the complaint until those reasons have been addressed to the satisfaction of the Board,

or

(b) if the complaint relates to a matter dealt with in section 9, 11 or 12 and the complaint has not been referred to the Board under section 9.5(3).

13 The following is added after section 16:

Regulations

16.1 The Minister may make regulations

(a) respecting the surveillance duties of the Power Pool Council and the Market Surveillance Administrator under section 9.1;

12 Section 16(2) presently reads:

(2) The Board shall not deal with a complaint under subsection (1)

(a) if the complainant has not attempted to negotiate a settlement of the matter under Part 6, or

(b) if the complainant has attempted to negotiate a settlement of the matter under Part 6, but

(i) a bad faith certificate has been issued to the complainant pursuant to section 66(f) and has not been withdrawn, and

(ii) the Board is of the view that the reasons stated in the bad faith certificate justify the Board's not hearing the complaint until those reasons have been addressed to the satisfaction of the Board.

13 Adds regulation making powers.

- (b) respecting investigations that may be conducted by the Market Surveillance Administrator, including the right to enter any premises or place, to compel the production of information, to copy information and to make reasonable inquiries of any person;
- (c) specifying other information that must be included in a report under section 9.4(b);
- (d) respecting the kinds of decisions that the Power Pool Council has authority to make under section 9.5, including the imposition of fines or other sanctions and the making of orders relating to the costs of investigations and hearings;
- (e) respecting the holding of a hearing by the Power Pool Council, including provisions relating to the production of information, compelling the attendance of witnesses, providing notice of hearings and the duty to notify appropriate persons of the outcome of hearings;
- (f) respecting the referral of a matter by the Power Pool Council to a body referred to in section 9.5(2) and specifying other entities for the purposes of that subsection;
- (g) respecting the appeal of a decision of the Power Pool Council to the Board;
- (h) that have the effect of superseding an interim decision under section 9.6.

14 Section 17 is amended

(a) by renumbering clause (a) as clause (a.2) and adding the following before clause (a.2):

- (a) “management fee” means a fee for carrying out the duties and functions of the Transmission Administrator under this Act that is, in the Board’s opinion,
 - (i) commensurate with the business risk the Transmission Administrator will assume during the period in which its tariff is in effect, and
 - (ii) reasonable compensation to the Transmission Administrator for its services during that period;

14 Section 17 presently reads:

17 In this Part and in Parts 4 and 5,

- (a) “rates” means prices, rates, tolls and charges that apply to service provided by an electric utility or the Transmission Administrator;*
- (b) “tariff” means a document that sets out*
 - (i) rates, and*
 - (ii) applicable terms and conditions;*
- (c) “terms and conditions” means the standards, classifications, regulations, practices, measures and terms and conditions that apply to service provided by an electric utility or the Transmission Administrator.*

- (a.1) “notice of intention to terminate” means a written notice delivered by either the Minister or the Transmission Administrator to the other that expresses an intention to bring the appointment of the Transmission Administrator to an end;

(b) by adding the following after clause (a.2):

- (a.3) “recovery tariff” means a tariff of the Transmission Administrator
- (i) that, when approved by the Board, varies or replaces the Transmission Administrator’s tariff then in effect,
 - (ii) that is submitted and approved under section 49, and
 - (iii) that is prepared for the purpose of enabling the Transmission Administrator to recover the amounts listed in section 52.2;
- (a.4) “replacement Transmission Administrator” means any person appointed as the successor to the Transmission Administrator or any other person who assumes the duties and functions given to the Transmission Administrator under this Act;

15 Section 18 is amended

(a) in subsection (1)

(i) by repealing clauses (c) and (d) and substituting the following:

- (c) Enmax Power Corporation;
- (d) Edmonton Power Inc.;

(ii) by adding the following after clause (m):

- (m.1) the Environmental Law Centre;
- (m.2) the Senior Petroleum Producers Association;

(b) in subsection (2) by striking out “Lieutenant Governor in Council” and substituting “Minister”.

15 Section 18(1) and (2) presently read:

18(1) There is established a corporation called the “Electric Transmission Council”, consisting of the following members:

- (a) Alberta Power Limited;*
- (b) TransAlta Utilities Corporation;*
- (c) the City of Calgary;*
- (d) Edmonton Power Inc.;*
- (e) the City of Lethbridge;*
- (f) the City of Red Deer;*
- (g) the City of Medicine Hat;*
- (h) the Alberta Federation of REA's Ltd.;*
- (i) the Industrial Power Consumers Association of Alberta;*

16 Section 19 is amended by renumbering it as section 19(1) and by adding the following after subsection (1):

- (2) The Electric Transmission Council may
 - (a) determine the number of its members that constitutes a quorum at meetings of the Electric Transmission Council, and
 - (b) determine rules or procedures respecting the number of its members that is required to carry out any act in order for that act to constitute an act of the Electric Transmission Council.

17 Section 21 is amended by striking out “Before January 1, 1996, the” and substituting “The”.

18 Section 28 is amended by adding the following after subsection (3):

- (4) The Transmission Administrator may request the Board to approve an information-sharing arrangement that requires the owners of generating units, the owners of electric distribution systems and the owners of transmission facilities to provide information necessary to enable the Transmission Administrator to carry out its duties and functions, including information related to
 - (a) the characteristics and status of assets,
 - (b) past, current and expected performance of assets,

- (j) the Independent Power Producers Society of Alberta;*
- (k) the Alberta Association of Municipal Districts and Counties;*
- (l) the Alberta Irrigation Projects Association;*
- (m) Public Institutional Consumers of Alberta;*
- (n) the corporations, municipalities, organizations and individuals appointed under subsection (2).*

(2) The Lieutenant Governor in Council shall appoint as members of the Electric Transmission Council such corporations, municipalities, organizations or individuals as may, in the opinion of the Minister, be necessary or desirable to ensure that the membership of the Electric Transmission Council is representative of persons having a material interest in the Alberta electric industry.

16 Section 19 presently reads:

19 The Electric Transmission Council has the power to carry out any duty or function given to it under this or any other enactment.

17 Section 21 presently reads:

21 Before January 1, 1996, the Lieutenant Governor in Council shall, after consulting with the Electric Transmission Council, appoint a qualified person or persons to act as the Transmission Administrator.

18 Section 28 presently reads:

28(1) Each owner of a transmission facility shall use reasonable efforts to operate its transmission facility in co-operation and conjunction with the owners of other transmission facilities through the direction of a person appointed under section 9(1)(c).

(2) Each owner of a transmission facility is responsible for maintaining the integrity of its transmission facility so that it can be used by the Transmission Administrator to provide system access service.

(3) The owners of transmission facilities, other members of the Electric Transmission Council and the Transmission Administrator shall co-operate with each other in good faith to enable and assist

- (c) details of operation of assets, including maintenance schedules, and
 - (d) forecasts of volumes of supply or delivery of electricity at points where an asset connects to the transmission system.
- (5) The information-sharing arrangement approved by the Board may require the owners referred to in subsection (4) to provide the Transmission Administrator with access to their meters and their records relating to metering for verification purposes and to permit the Transmission Administrator to copy those records.
- (6) The owners referred to in subsection (4) shall provide to the Transmission Administrator the information and access described in the information-sharing arrangement approved by the Board.
- (7) The Transmission Administrator shall keep information received by it under subsection (6) confidential if required by the information-sharing arrangement approved by the Board.
- (8) In subsection (4), “asset” means
- (a) a generating unit,
 - (b) an electric distribution system, or
 - (c) a transmission facility.

19 The following is added after section 31:

Termination of
appointment of
Transmission
Administrator

31.1(1) In this section,

- (a) “assets” means the assets that are needed for the continued proper and efficient operation of the Transmission Administrator function and that the replacement Transmission Administrator requests the former Transmission Administrator to provide to it;
- (b) “information” means the information that is needed for the continued proper and efficient operation of the Transmission Administrator function, including historical information related to
 - (i) billing,
 - (ii) system access service,

the Electric Transmission Council to carry out its duties and functions.

19 New sections to deal with replacement of Transmission Administrator and protection from liability.

- (iii) system support services,
- (iv) transmission line losses, and
- (v) transmission system design and operation,

but does not include the expertise or experience of the former Transmission Administrator or training by the former Transmission Administrator.

(2) On receiving or delivering a notice of intention to terminate, the Transmission Administrator shall provide a copy of the notice to the Board.

(3) The Transmission Administrator shall

- (a) during the period commencing on the date of delivery of a notice of intention to terminate and expiring on the date on which the termination of the appointment of the Transmission Administrator is effective, co-operate with the Minister or any person that may be designated as the replacement Transmission Administrator, or both, in good faith to facilitate the replacement of the Transmission Administrator, and
- (b) before the effective date of the appointment of a replacement Transmission Administrator, share with the Minister, if requested by the Minister to do so, or any person that may be designated as the replacement Transmission Administrator, or both, all of the Transmission Administrator's assets and information.

(4) On the termination of the appointment of the Transmission Administrator taking effect, the former Transmission Administrator shall provide to the replacement Transmission Administrator all of the former Transmission Administrator's assets and information, including any generating unit or transmission facility built by the former Transmission Administrator.

(5) The sharing of assets and information under subsection (3) and the providing of assets and information under subsection (4) is not a transfer or divestiture of property to which section 3(1)(a) applies.

(6) In the event of a dispute between the former Transmission Administrator and the replacement Transmission Administrator as to the assets or information to be shared under subsection (3) or provided under

subsection (4), the dispute shall be settled by the decision of a person appointed by the Minister for the purposes of settling that dispute.

(7) The former Transmission Administrator and the replacement Transmission Administrator shall negotiate in good faith the value of the assets and information to be shared under subsection (3) or provided under subsection (4) and the terms on which they are to be provided, and in the event of a dispute as to the value or terms, the dispute shall be settled by a decision of the Board.

(8) The former Transmission Administrator may register and maintain a lien, charge, mortgage, security interest or other encumbrance, as applicable, in favour of the former Transmission Administrator in respect of the assets and information provided under subsection (4) until such time as the former Transmission Administrator is fully reimbursed for the assets and information, at which time the encumbrance shall be discharged by the former Transmission Administrator.

Liability
protection

31.2(1) In this section,

- (a) “direct loss or damage” does not include loss of profits, loss of revenue, loss of production, loss of earnings, loss of contract or any other indirect, special or consequential loss or damage whatsoever arising out of or in any way connected with an act or omission, or purported act or omission, by a transmission person in connection with the carrying out of the duties or functions of the Transmission Administrator;
- (b) “transmission person” means
 - (i) the Transmission Administrator or any person named in an Order in Council to become the Transmission Administrator,
 - (ii) a director, officer or employee of a person referred to in subclause (i),
 - (iii) an affiliate of a person referred to in subclause (i), and
 - (iv) a director, officer or employee of a person referred to in subclause (iii).

(2) A transmission person is not liable for any act or omission, or any purported act or omission, in connection

with the carrying out of the duties or functions of the Transmission Administrator under this Act.

(3) Subsection (2) does not apply where the act or omission was caused by the gross negligence or wilful misconduct of a transmission person.

(4) Where, as a result of the operation of subsection (3), a transmission person is liable to a person for an act or omission, or a purported act or omission, in connection with the carrying out of the duties or functions of the Transmission Administrator under this Act, the transmission person is liable only for direct loss or damage suffered or incurred by that person.

(5) A transmission person is not liable for any act or omission of a predecessor in the office of the Transmission Administrator.

(6) Where

(a) a legal action has been commenced against a transmission person for an act or omission, or a purported act or omission, by the transmission person in connection with the carrying out of the duties or functions of the Transmission Administrator under this Act, and

(b) the transmission person is, as a result of the operation of subsection (2) or otherwise, not liable for the act or omission,

the Board shall allow recovery of the transmission person's costs of defending the legal action, including all reasonable legal expenses, where prudent, in future tariffs of the Transmission Administrator.

(7) No duties or functions of the Transmission Administrator under this Act and no responsibility or liability in respect of those duties or functions are transferred to any other person by operation of this section.

(8) This section is repealed on November 20, 1999.

20 The following is added after section 31.2:

20 Adds 2 new Parts dealing with distribution.

PART 3.1
DISTRIBUTION

Application of
Parts 3.1 and
3.2

31.3 Nothing in this Part or Part 3.2 applies

- (a) to the electric distribution system owned by the City of Medicine Hat or a subsidiary of the City of Medicine Hat, or
- (b) to customers whose property is located in the service area of the electric distribution system owned by the City of Medicine Hat or a subsidiary of the City of Medicine Hat.

Tariffs
required by
APL and TAU

31.4(1) In addition to any other requirement under this Act to prepare a tariff, each of Alberta Power Limited and TransAlta Utilities Corporation shall prepare

- (a) a distribution tariff, and
- (b) a direct access tariff.

(2) A corporation referred to in subsection (1) may authorize

- (a) another owner of an electric distribution system, or
- (b) an entity described in the regulations

to recover on behalf of the corporation the costs of providing distribution access service by means of the electric distribution system owned by the corporation.

Distribution
tariff

31.5(1) The distribution tariff required under section 31.4(1) must include

- (a) a cost of service study setting out the prudent costs of Alberta Power Limited or TransAlta Utilities Corporation, as the case may be, to provide distribution access service to each customer class, including billing, metering and maintaining information systems, and
- (b) any other information required by the regulations.

(2) The cost of service study must differentiate between

- (a) the prudent costs to provide distribution access service by means of an electric distribution system

owned by Alberta Power Limited or TransAlta Utilities Corporation, as the case may be, and

- (b) the prudent costs to provide distribution access service by means of an electric distribution system owned by a rural electrification association.

(3) The prudent costs referred to in subsection (2)(b) must not be used to calculate the rate to be charged pursuant to the distribution tariff.

Direct access
tariff

31.6(1) The direct access tariff required under section 31.4(1) must set out separate charges for each of the following:

- (a) the cost of electric energy exchanged through the power pool;
- (b) a fair and reasonable share of the system access service charge paid by Alberta Power Limited or TransAlta Utilities Corporation, as the case may be;
- (c) the rate set in the distribution tariff that applies to direct access customers;
- (d) a fair and reasonable charge for reservation payments made by Alberta Power Limited or TransAlta Utilities Corporation, as the case may be, under section 37(1);
- (e) a fair and reasonable credit for entitlements received by Alberta Power Limited or TransAlta Utilities Corporation, as the case may be, under section 35(1).

(2) The charge referred to in subsection (1)(a) must be designed to enable a direct access customer to choose to pay either

- (a) a variable charge that is determined by the cost of electric energy exchanged through the power pool at the pool price, or
- (b) one or more fixed charges that reflect an expected annual cost for electric energy exchanged through the power pool for different hours of the day, where the expected annual cost is calculated using a forecast of pool prices for those hours.

(3) The direct access tariff must include

	<ul style="list-style-type: none"> (a) a cost of service study setting out the charges paid by Alberta Power Limited or TransAlta Utilities Corporation, as the case may be, to the Transmission Administrator for system access service, (b) a forecast of the pool price to be paid by Alberta Power Limited or TransAlta Utilities Corporation, as the case may be, to exchange electric energy through the power pool for direct access customers for different hours of the day during the period in which the tariff is to be in effect, and (c) any other information required by the regulations.
Timing of application for approval of tariffs	<p>31.7(1) Each of Alberta Power Limited and TransAlta Utilities Corporation shall apply to the Board not later than July 15, 1998 for approval of the tariffs required under section 31.4(1).</p> <p>(2) The application to the Board under subsection (1) must be made at the same time as and in conjunction with the Phase 2 application of Alberta Power Limited or TransAlta Utilities Corporation, as the case may be, for Board approval of tariffs pursuant to the 1996 electric tariff proceeding.</p> <p>(3) Each tariff required under section 31.4(1) must take effect not later than April 1, 1999.</p>
Direct access customer choice	<p>31.8(1) A direct access customer may choose to be billed pursuant to the direct access tariff referred to in section 31.4(1)(b) as soon as it is approved by the Board.</p> <p>(2) A direct access customer that makes the choice referred to in subsection (1) may choose one or both of the following:</p> <ul style="list-style-type: none"> (a) to exchange electric energy through the power pool; (b) to enter into arrangements with the Transmission Administrator to provide system support services to the Transmission Administrator.
Distribution tariff of REAs	<p>31.9(1) A rural electrification association that owns an electric distribution system may authorize</p> <ul style="list-style-type: none"> (a) another owner of an electric distribution system, or (b) an entity described in the regulations

to recover on behalf of the rural electrification association the costs of providing distribution access service by means of the electric distribution system owned by the rural electrification association.

(2) A distribution tariff setting the rates to be charged by the rural electrification association for providing distribution access service must be prepared

(a) by the rural electrification association, or

(b) by the person authorized to act on behalf of the rural electrification association, if the rural electrification association has made an authorization under subsection (1).

(3) The person preparing the distribution tariff must have regard for the principles established by the Board under section 31.98(b).

(4) The distribution tariff must include the information required by the regulations.

(5) The person preparing the distribution tariff must apply to the Board not later than May 1, 1999 for approval of the tariff.

(6) A tariff under this section must take effect not later than February 15, 2000.

Distribution
tariff of
municipalities

31.91(1) In this Part, “municipality” means a municipality or a subsidiary of a municipality that

(a) owns an electric distribution system, and

(b) has one or more affiliated retailers.

(2) A municipality shall elect one of the following methods to determine the rates to be charged by it for providing distribution access service:

(a) negotiating a settlement under Part 6 with direct access customers whose property is located in the service area of the municipality’s electric distribution system;

(b) preparing a distribution tariff.

Appointment
of adjudicator

31.92(1) Where a municipality elects the method referred to in section 31.91(2)(a), the Board may appoint a mediator to assist the parties in negotiating the rates.

(2) A person who is a member of the Board or has a material interest in any one or more of the parties negotiating the rates is not eligible to be appointed under subsection (1).

Start of
process

31.93 The settlement process must begin not later than May 1, 1999.

Failure to
negotiate
settlement

31.94(1) If no settlement is negotiated by October 1, 1999, the municipality shall

(a) prepare a distribution tariff in accordance with section 31.97, and

(b) apply to the Board not later than November 1, 1999 for approval of the tariff.

(2) A tariff referred to in subsection (1) must take effect not later than February 15, 2000.

Negotiated
settlement

31.95(1) If a settlement is negotiated by October 1, 1999,

(a) the Board is not required to approve the settlement despite section 55, and

(b) the municipality may begin to charge the rates that have been negotiated, in accordance with the terms and conditions of the settlement.

(2) A tariff resulting from a settlement referred to in subsection (1) must take effect not later than February 15, 2000.

Election of
tariff

31.96(1) Where a municipality elects the method referred to in section 31.91(2)(b), the municipality shall

(a) prepare a distribution tariff in accordance with section 31.97, and

(b) apply to the Board not later than July 1, 1999 for approval of the tariff.

(2) A tariff referred to in subsection (1) must take effect not later than February 15, 2000.

Preparation of
tariff

31.97(1) Where a municipality is required to prepare a distribution tariff, the municipality may authorize

- (a) another owner of an electric distribution system, or
- (b) an entity described in the regulations

to recover on behalf of the municipality the costs of providing distribution access service by means of the electric distribution system owned by the municipality.

(2) A distribution tariff setting the rates to be charged by the municipality for providing distribution access service must be prepared

- (a) by the municipality, or
- (b) by the person authorized to act on behalf of the municipality, if the municipality has made an authorization under subsection (1).

(3) The person preparing the distribution tariff must have regard for the principles established by the Board under section 31.98(b).

(4) The distribution tariff must include the information required by the regulations.

Regulations

31.98 The Minister may make regulations

- (a) respecting information that is required to accompany or form part of a tariff under this Part;
- (b) respecting the requirement for the Board to establish principles providing guidance to persons who prepare tariffs under sections 31.9 and 31.97;
- (c) describing entities that the owner of an electric distribution system may authorize to act on its behalf pursuant to section 31.4, 31.9 or 31.97;
- (d) respecting the rights and financial obligations of direct access customers regarding their relationship with the owner of the electric distribution system in whose service area that customer's property is located;
- (e) respecting the rights of owners of electric distribution systems regarding planning and expansion of those systems;

- (f) respecting the obligation of owners of electric distribution systems to develop and offer non-discriminatory distribution tariffs;
- (g) respecting the licensing of direct access customers and the requirement to provide performance security;
- (h) respecting the eligibility of customers other than direct access customers to make the choices described in section 31.8 pursuant to a direct access tariff;
- (i) respecting the holding of a hearing by the Board before June 15, 1999, or any later date, relating to the allocation of shares of the balancing pool to customer classes and setting percentage shares for each customer class for the purposes of the allocation for the period beginning on January 1, 2001 and ending at 12 midnight on December 31, 2005;
- (j) respecting the circumstances that will apply if the hearing referred to in clause (i) is not held or is not completed by a specified date;
- (k) respecting any other matter the Minister considers necessary or advisable to carry out the intent of this Part;
- (l) to deal with any difficulty or impossibility resulting from the enactment of this Part.

PART 3.2

WIRE SERVICES PROVIDERS, RETAILERS AND OWNERS OF ELECTRIC DISTRIBUTION SYSTEMS

Definition

31.99 In this Part, “wire services provider” means a person authorized pursuant to section 31.4, 31.9 or 31.97 to act on behalf of the owner of an electric distribution system.

Functions of wire services providers

31.991(1) After December 31, 2000, the following functions must be carried out by wire services providers:

- (a) performing metering and maintaining information systems relating to the consumption of electricity by customers;

- (b) where a retailer authorized to do so under the regulations chooses to perform billing in respect of its customers, providing to the retailer sufficient information about its customers to enable the retailer to perform that function, including metering information about the electricity consumed by its customers;
- (c) operating and maintaining electric distribution systems in a safe and reliable manner;
- (d) undertaking financial settlement with the Transmission Administrator for system access service;
- (e) acting as a retailer to customers who choose to pay a stable rate for electricity for the period beginning on January 1, 2001 and ending at 12 midnight on December 31, 2005 in accordance with the regulations.

(2) Each wire services provider shall, in carrying out the functions set out in subsection (1), keep the records specified in the regulations in the manner specified in the regulations.

Functions of
retailers

31.992(1) After December 31, 2000, the following functions may be carried out by retailers:

- (a) providing electricity services to customers, excluding metering and maintaining information systems until retailers are permitted under the regulations to provide those services;
- (b) exchanging electric energy through the power pool on behalf of customers of the retailer;
- (c) performing financial settlement with the person appointed under section 9(1)(b) for electric energy purchased on behalf of customers of the retailer.

(2) After December 31, 2000, the following functions must be carried out by retailers:

- (a) maintaining records and accounts relating to customers of the retailer respecting the provision of electricity services;
- (b) making a reasonable effort to collect the charges contained in accounts referred to in clause (a) before discontinuing electricity services to a customer.

Functions of
owners of
electric
distribution
systems

31.993 After December 31, 2000, the following functions must be carried out by owners of electric distribution systems:

- (a) making decisions about building, upgrading and improving wires of electric distribution systems for the purpose of providing safe and reliable delivery of electric energy to customers in the service areas served by the electric distribution systems;
- (b) ensuring that wire services providers comply with this Act and the regulations.

Payment in
lieu of income
tax

31.994(1) The following persons shall pay to the Provincial Treasurer an amount calculated in accordance with the regulations:

- (a) each municipality that owns
 - (i) a retailer, or
 - (ii) the holder of a power purchase arrangement or financial instrument under Part 4.1;
- (b) each retailer that is a subsidiary of a municipality;
- (c) each holder of a power purchase arrangement or financial instrument under Part 4.1 that is a subsidiary of a municipality;

in respect of income received by the retailer or holder referred to in clause (a), (b) or (c) from business carried on by that retailer or holder.

(2) The Lieutenant Governor in Council may make regulations respecting

- (a) the calculation of the amount to be paid to the Provincial Treasurer under subsection (1);
- (b) the interval at which the amount is to be paid to the Provincial Treasurer.

(3) The amount to be paid under subsection (1) shall not exceed the amount a municipality or a subsidiary of a municipality would be required to pay if the municipality or subsidiary were subject to the payment of tax under the *Income Tax Act* (Canada), the *Alberta Income Tax Act* or the *Alberta Corporate Tax Act*.

(4) In the event that a municipality or a subsidiary of a municipality is subject to the payment of tax under the *Income Tax Act* (Canada), the *Alberta Income Tax Act* or the *Alberta Corporate Tax Act*, subsection (1) does not apply.

(5) Subsection (1) does not apply to the City of Medicine Hat or to a subsidiary of the City of Medicine Hat.

Regulations

31.995(1) The Minister may make regulations

- (a) respecting the manner in which functions of wire services providers, retailers and owners of electric distribution systems are to be carried out;
- (b) clarifying or altering the functions set out in sections 31.991, 31.992 and 31.993;
- (c) enabling persons other than wire services providers to perform metering and to maintain information systems after December 31, 2005;
- (d) respecting billing and who will be responsible for carrying out that function after December 31, 2000;
- (e) establishing a code of conduct governing the relationship between a wire services provider and its affiliated retailers;
- (f) establishing a code of conduct governing the flow of information between wire services providers and retailers;
- (g) establishing codes and standards governing the conduct of retailers;
- (h) respecting the rights and obligations of retailers;
- (i) respecting arrangements among independent retailers, affiliated retailers and wire services providers related to performing metering and billing and maintaining information systems;
- (j) respecting the licensing of retailers and the requirement to provide performance security;
- (k) respecting the holding of a hearing by the Board before March 15, 2000, or any later date, relating to the approval of a stable rate tariff that sets a stable rate for customers for the period beginning on January 1, 2001 and ending at 12 midnight on

December 31, 2005 and providing for that rate to be negotiated by settlement under Part 6;

- (l) respecting the circumstances that will apply if the hearing referred to in clause (k) is not held or is not completed by a specified date;
 - (m) respecting arrangements between wire services providers and customers who elect to pay a stable rate for electricity for the period beginning on January 1, 2001 and ending at 12 midnight on December 31, 2005;
 - (n) respecting records to be kept by wire services providers;
 - (o) specifying other services that are included in the definition of electricity services;
 - (p) respecting any other matter the Minister considers necessary or advisable to carry out the intent of this Part;
 - (q) to deal with any difficulty or impossibility resulting from the enactment of this Part.
- (2) A regulation
- (a) referred to in subsection (1)(c) must be made not later than January 1, 2002, and
 - (b) referred to in subsection (1)(d) must be made not later than December 31, 1999.

21 Section 32(4) is amended by striking out “until the unit is removed from regulated service” and substituting “until December 31, 2000”.

22 Section 35 is amended

(a) by adding the following after subsection (3):

(3.1) The percentage shares set for 1999 apply for 2000 to the regulated generating units listed in Part 1 of the Schedule.

21 Section 32(4) presently reads:

(4) The unit obligation amounts determined for 1996 apply for each year after 1996 until the unit is removed from regulated service, unless subsection (5) or (6) applies.

22 Section 35 presently reads:

35(1) Each owner of an entitled electric distribution system and the Transmission Administrator are entitled to receive for each hour in a pay period, through financial settlement under section 11(b), credit for an amount equal to that person's percentage share of the sum of the unit obligation values paid under section 34 for all regulated generating units.

(2) The Lieutenant Governor in Council may make regulations

- (b) in subsection (6) by adding** “except to change the name of an owner of an entitled electric distribution system” **after** “changed”.

23 Section 37 is amended

- (a) by adding the following after subsection (3):**

(3.1) The percentage shares set for 1999 apply for 2000 to the regulated generating units listed in Part 1 of the Schedule.

- (b) in subsection (6) by adding** “except to change the name of an owner of an entitled electric distribution system” **after** “changed”.

24 Section 39(5) is repealed.

- (a) *respecting the setting of the percentage shares for each owner of an entitled electric distribution system and for the Transmission Administrator, and*
- (b) *setting a year for the purposes of subsection (3).*
- (3) *The percentage shares must be set for each hour in 1996 and in each subsequent year to and including the year set in the regulations under subsection (2)(b).*
- (4) *Until December 31, 1997, regulations made under subsection (2)(a) may be amended after the Minister has consulted with the committee established under section 39.*
- (5) *Any amendment made pursuant to subsection (4) must be consistent with the requirement set out in section 38(1).*
- (6) *After December 31, 1997, the percentage shares shall not be changed.*

23 Section 37 presently reads:

- 37(1) Each owner of an entitled electric distribution system and the Transmission Administrator have an obligation to pay, for each pay period, through financial settlement under section 11(b), an amount equal to that person's percentage share of the sum of all aggregate reservation prices that are allocated to that pay period.*
- (2) *The Lieutenant Governor in Council may make regulations*
 - (a) *respecting the setting of the percentage shares for each owner of an entitled electric distribution system and for the Transmission Administrator, and*
 - (b) *setting a year for the purposes of subsection (3), which must not be different from the year set in the regulations under section 35(2)(b).*
 - (3) *The percentage shares must be set for 1996 and for each subsequent year to and including the year set in the regulations under subsection (2)(b).*
 - (4) *Until December 31, 1997, regulations made under subsection (2)(a) may be amended after the Minister has consulted with the committee established under section 39.*
 - (5) *Any amendment made pursuant to subsection (4) must be consistent with the requirement set out in section 38(1).*
 - (6) *After December 31, 1997, the percentage shares shall not be changed.*

24 Section 39(5) presently reads:

- (5) *A consultation*

25 Section 40(2) is amended by striking out “order referred to in subsection (1) was made” and substituting “first order referred to in subsection (1) relating to that service area was made”.

26 The following is added after section 40:

Service areas

40.1(1) For the purposes of this Part, the service areas of the electric distribution systems owned by the municipalities referred to in subsection (5) and by rural electrification associations are considered to be part of the service area of the owner of the entitled electric distribution system with whom arrangements for the supply of electricity existed on May 17, 1995.

(2) Where a municipality referred to in subsection (5) or a rural electrification association no longer wishes the service area of the electric distribution system owned by it to be considered in accordance with subsection (1), the municipality or rural electrification association may give notice in writing to that effect to the owner of the entitled electric distribution system.

(3) If notice is given under subsection (2), section 40 applies as if an order had been made under the *Hydro and Electric Energy Act*

- (a) reducing the size of the entitled electric distribution system's service area, and
- (b) creating a service area for the electric distribution system owned by the municipality or rural electrification association giving the notice,

and the payments and credits required under section 40 must be made through financial settlement under section 11(b) unless section 40(3) applies.

(4) A notice given under subsection (2) is not effective until after the expiry of contractual arrangements that existed on the date the notice was given for the supply of electricity and made between the municipality or rural electrification

(a) relating to regulations made for the first time under sections 32(1), 35(2), 37(2) and 44 must be completed before August 1, 1995, and

(b) relating to regulations referred to in section 42 must be completed before January 1, 1996.

25 Section 40(2) presently reads:

(2) The shares described in subsection (1)(b) must be equal to the proportion that the load, during the pay period, in that part of the service area that became part of another electric distribution system's service area or became the service area of a new electric distribution system bears to the overall load, during the same pay period, in that service area as it existed immediately before the order referred to in subsection (1) was made.

26 Service areas.

association giving the notice and the owner of the entitled electric distribution system.

(5) Notice may be given under this section by any of the following municipalities:

- (a) the Town of Cardston;
- (b) the Town of Fort Macleod;
- (c) the Town of Ponoka;
- (d) the Municipality of Crowsnest Pass.

27 Sections 41, 42 and 43 are repealed.

27 Sections 41, 42 and 43 presently read:

41(1) The owner of a regulated generating unit and the owners of entitled electric distribution systems may agree to remove the generating unit from regulated service.

(2) In the course of negotiating the agreement, the owners of entitled electric distribution systems shall consult with their customers.

(3) The agreement must specify any conditions that apply to the removal of the regulated generating unit from service.

(4) The agreement has no effect unless it is approved by the Board.

(5) Before granting approval of the agreement, the Board shall satisfy itself that the agreement is in the interests of all consumers of electricity in Alberta and in the interests of the owner of the regulated generating unit.

(6) When considering granting approval of the agreement, the Board may take into account any negotiated settlement under Part 6 that relates to the agreement.

42(1) The Lieutenant Governor in Council may make regulations

(a) respecting all aspects of the ongoing investment in regulated generating units to maintain their capacity or extend their life,

(b) respecting all aspects of the removal of regulated generating units and associated property from regulated service, and

(c) respecting any other matter identified by the Minister.

(2) Regulations made under subsection (1) shall not be amended.

28 Section 45 is amended

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

(2.1) If

- (a) a municipality had an interest in a generating unit on May 1, 1995, and
- (b) a subsidiary of the municipality acquires the interest after May 1, 1995,

the municipality and the subsidiary are considered to be in compliance with subsection (2) if the generating capacity of the generating unit does not increase significantly beyond its capacity on May 1, 1995.

(b) by adding the following after subsection (3):

(3.1) The Board may determine whether

- (a) a proposal by the City of Medicine Hat or a subsidiary of that municipality to hold an interest in a generating unit, or
- (b) an interest in a generating unit that is held by the City of Medicine Hat or a subsidiary of that municipality

is in accordance with subsection (3).

29 The following is added after section 45:

PART 4.1

GENERATING UNITS

Interpretation

45.1(1) In this Part,

- (a) “base life”, in respect of a generating unit listed in Part 1 of the Schedule, means the period ending at 12 midnight on the last day of the year in which the generating unit is forecast to be decommissioned, as set out in the Schedule;
- (b) “effective term”, in respect of a generating unit listed in Part 1 of the Schedule, means the period beginning on January 1, 2001 and ending at 12 midnight on the earlier of

43 After a regulated generating unit is removed from regulated service, whether pursuant to section 41 or section 42, this Part and Part 5 no longer apply in respect of that unit.

28 Section 45(1) to (3) presently read:

45(1) No municipality or subsidiary of a municipality shall hold, directly or indirectly, an interest in a generating unit except in accordance with any or all of the provisions of this section.

(2) If a municipality or a subsidiary of a municipality has an interest in a generating unit on May 1, 1995, that municipality or subsidiary may continue to hold that interest after May 1, 1995 if the generating capacity of the unit does not increase significantly beyond its capacity on that date.

(3) The City of Medicine Hat or a subsidiary of that municipality may hold an interest in a generating unit if the generating capacity of that unit and all other generating units in which that municipality or subsidiary has an interest does not exceed the capacity that is needed to reliably meet the requirements of consumers of electricity in the service area of the electric distribution system owned by that municipality or subsidiary.

29 Adds a new Part dealing with de-regulation of generating units listed in the Schedule.

- (i) December 31, 2020, and
 - (ii) the last day of the base life of the generating unit;
- (c) “financial instrument”, in respect of a generating unit listed in Part 1 of the Schedule, means a financial arrangement that
- (i) compensates the owner of the generating unit for fixed costs and variable costs for a period of time set in the financial arrangement, and
 - (ii) provides for the sharing, over the base life and life extension period, if applicable, of the generating unit, of the costs and benefits associated with the electricity produced by the generating unit among all consumers of electricity in Alberta;
- (d) “fixed costs”, in respect of a generating unit listed in the Schedule, means
- (i) the costs associated with capital related to an investment in the generating unit by the owner of the generating unit, including
 - (A) depreciation,
 - (B) interest paid on money borrowed for the purpose of the investment,
 - (C) any return required to be paid to preferred shareholders of the owner of the generating unit relating to the investment,
 - (D) a fair return on the equity of shareholders of the owner of the generating unit as it relates to the investment, and
 - (E) taxes associated with the investment,
 - (ii) the operating and maintenance costs, other than variable costs, relating to the generation of electricity by the generating unit and the costs to start the generating unit running, and
 - (iii) any other costs and expenses, including

(A) a fair allocation of any of the owner's costs that relate to any or all of the owner's generating units,

(B) costs described in the regulations that are beyond the reasonable control of the owner, such as costs that result from a change in the tax status of a generating unit owned by a municipality or a subsidiary of a municipality, and

(C) charges for system access service;

(e) "life extension period", in respect of a generating unit listed in the Schedule, means the period beginning immediately after the end of the base life of the unit and ending not later than 12 midnight on December 31, 2020;

(f) "variable costs", in respect of a generating unit listed in the Schedule, means the costs that vary with a change in the output of the generating unit, per unit of electric energy.

(2) The provisions of the *Public Utilities Board Act* relating to hearings, service of notices or orders, regulations, rules and procedure, enforcement of orders and the rights, powers, privileges and immunities of the Public Utilities Board apply to the Alberta Energy and Utilities Board as if they were provisions of this Part.

Appointment
of independent
assessment
team

45.2 The Minister shall appoint a qualified person or persons to act as an independent assessment team.

Power of
independent
assessment
team

45.3 The independent assessment team has the power to carry out any duty or function given to it under this Act or the regulations.

Duty relating
to Part 1
generating
units

45.4(1) Not later than August 31, 1998, the owner of a generating unit listed in Part 1 of the Schedule shall provide to the independent assessment team a proposal relating to that generating unit.

(2) A proposal under subsection (1) must include

(a) a proposed power purchase arrangement that would apply to the generating unit over the effective term,

(b) information relating to the fixed costs and variable costs of generating electricity at the expected

available capacity of the generating unit over the effective term,

- (c) information relating to the capability of the generating unit to provide system support services over the effective term,
- (d) any additional information that the independent assessment team requests relating to the generating unit over the effective term, and
- (e) any other information specified in the regulations.

(3) The information provided under subsection (2) must

- (a) indicate how the fixed costs and variable costs, the expected available capacity and the amount of electricity expected to be generated may change over the effective term,
- (b) indicate anticipated increases or decreases in price indices, rates of inflation or similar measurements that are used to determine how any of the items referred to in clause (a) may change over the effective term,
- (c) include the estimated cost of any future ongoing investment in the generating unit over the effective term and the impact of that investment on the expected available capacity and the amount of electricity expected to be generated over the effective term,
- (d) include the estimated cost of decommissioning the generating unit and the estimated salvage value of the generating unit, and
- (e) include any formulas or assumptions used to calculate changes under clause (a), (b) or (c) over the effective term.

(4) Where the generating unit is forecast to be decommissioned before January 1, 2021, the owner of the generating unit shall provide as part of the proposal under subsection (1)

- (a) a 2nd proposed power purchase arrangement that would apply to the generating unit over its life extension period, and

Power
purchase
arrangement

- (b) the information required under subsections (2)(b) to (e) and (3) relating to the 2nd power purchase arrangement over the life extension period.

(5) The information required under subsection (4) must be provided to the independent assessment team not later than October 30, 1998.

(6) The owner of the generating unit shall also provide, not later than August 31, 1998, information relating to reasonable costs over the effective term for coal rights or any other property that have been approved by the Board for inclusion in the owner's tariff, where the rights or other property is not attributable to any particular generating unit.

45.5(1) The independent assessment team shall, on receipt of a proposal under section 45.4 relating to a generating unit,

- (a) review the information and make an assessment as to whether the information and the terms and conditions of the proposed power purchase arrangement or arrangements associated with that generating unit are reasonable,
- (b) assess the reasonableness of any formula or assumption referred to in section 45.4(3)(e),
- (c) assess the reasonableness of any submission from any interested party relating to the generating unit, and
- (d) consult with interested parties respecting the reasonableness of the matters referred to in clauses (a), (b) and (c).

(2) The independent assessment team shall

- (a) for each generating unit, determine a power purchase arrangement that is just and reasonable and that
 - (i) provides the owner with a reasonable opportunity to recover the fixed costs and variable costs of generating electricity at the expected available capacity of the generating unit over the effective term,
 - (ii) in respect of the fixed costs of the generating unit referred to in section 45.1(1)(d)(i)(D)

- (A) fixes a just, reasonable and appropriate composition of debt and equity for the owner's investment in the generating unit over the effective term, and
- (B) provides for a rate of return on equity, based on long term Government of Canada bond yields that are adjusted annually by the automatic application of a formula that references reasonable assumptions for those bond yields, plus a percentage risk premium that is commensurate with the risk of the owner over the effective term,
- (iii) provides the owner with a reasonable opportunity to achieve efficiencies through incentives, including cost and output incentives, over the effective term,
- (iv) establishes operational and financial terms and conditions that address dispatch arrangements, maintenance schedules, system support services capability, performance provisions and penalties,
- (v) provides the owner with incentives for any future ongoing investment in the generating unit over the effective term,
- (vi) includes the terms and conditions under which the generating unit is to be decommissioned, if applicable, and
- (vii) includes any other terms and conditions that the independent assessment team considers appropriate,
- (b) for a generating unit to which section 45.4(4) applies, determine a 2nd power purchase arrangement that satisfies the requirements of clause (a) in respect of the life extension period of the generating unit,
- (c) determine the reasonable costs for coal rights or any other property referred to in section 45.4(6) for the period beginning on January 1, 2001 and ending at 12 midnight on December 31, 2020, and
- (d) determine a method of establishing the costs of the following associated facilities that may be used by the generating unit in common with other generating

units that may be constructed at that power plant after January 1, 2001:

- (i) fuel and fuel handling equipment;
- (ii) cooling water facilities;
- (iii) switch yards;
- (iv) other items;

and of allocating those costs among all of the generating units at that power plant and those that may be constructed at that power plant after January 1, 2001 that use the associated facilities.

(3) The right to exchange the electric energy associated with a power purchase arrangement as an eligible person through the power pool shall be exercised by the person who purchases the power purchase arrangement at an auction under section 45.93, unless subsection (4) applies.

(4) If the owner of the generating unit satisfies the independent assessment team, pursuant to the guidelines set out in the regulations, that the owner should retain the right referred to in subsection (3), the independent assessment team may determine that the owner retains that right.

(5) If the generating unit produces more electric energy than is anticipated in the power purchase arrangement that applies to it, the owner of the generating unit is entitled to the benefit associated with the exchange through the power pool of the excess electric energy produced, in accordance with the regulations, notwithstanding that the right to exchange the electric energy may be exercised by the purchaser of the power purchase arrangement pursuant to subsection (3).

(6) In respect of each power purchase arrangement determined under this section, the independent assessment team may recommend that specified intervals be auctioned under section 45.93, and in that event the independent assessment team shall recommend the appropriate intervals to be auctioned.

Duty relating
to Part 2
generating
units

45.6(1) Not later than August 31, 1998, the owner of one or more generating units listed in Part 2 of the Schedule shall provide to the independent assessment team a proposal relating to those generating units.

(2) A proposal under subsection (1) must include

- (a) a proposed power purchase arrangement that would apply to those generating units for the period beginning on January 1, 2001 and ending at 12 midnight on December 31, 2020, and
- (b) the information required under section 45.4(2) and (3) relating to the generating units.

Power
purchase
arrangement

45.7(1) The independent assessment team shall, on receipt of a proposal under section 45.6 relating to generating units,

- (a) review the information and make an assessment as to whether the information and the terms and conditions of the proposed power purchase arrangement associated with those generating units are reasonable,
- (b) assess the reasonableness of any formula or assumption referred to in section 45.4(3)(e),
- (c) assess the reasonableness of any submission from any interested party relating to those generating units, and
- (d) consult with interested parties respecting the reasonableness of the matters referred to in clauses (a), (b) and (c).

(2) The independent assessment team shall determine a power purchase arrangement for all of the generating units referred to in the proposal.

(3) Section 45.5(2)(a), except subclause (iv), applies to the determination of the power purchase arrangement.

Negotiated
settlement

45.8(1) One or more owners of generating units listed in the Schedule and interested parties may negotiate a settlement in accordance with Part 6 in respect of any matter that the independent assessment team has the authority to determine under sections 45.5 and 45.7.

(2) If a negotiated settlement has been reached in respect of a matter before the independent assessment team has made a determination relating to that matter, the independent assessment team shall

- (a) discontinue its activities under section 45.5 or 45.7, or both, relating to that matter, and
- (b) include the negotiated settlement as part of its report under section 45.9.

Report

45.9(1) The independent assessment team shall

- (a) prepare a report setting out
 - (i) its determinations, supported by economic analysis, relating to the matters set out in sections 45.5 and 45.7 and including a copy of each power purchase arrangement determined by the independent assessment team, and
 - (ii) any negotiated settlement reached under Part 6, and
- (b) provide a copy of the report to the Board, the owners of the generating units listed in the Schedule and any interested parties with whom the independent assessment team consulted.

(2) The Board shall publish a public notice advising that it has received the report of the independent assessment team and shall make a copy of the report available on request.

Powers of
Board

45.91(1) The Board shall

- (a) approve the power purchase arrangements and other determinations made by the independent assessment team, unless subsection (2) applies, and
- (b) approve any negotiated settlement reached under Part 6.

(2) The Board may vary the power purchase arrangements or other determinations made by the independent assessment team at the request of a person if that person satisfies the Board

- (a) that the independent assessment team did not carry out its duties in accordance with this Act and the regulations, or
- (b) that the power purchase arrangements or other determinations of the independent assessment team are obviously unreasonable, are not supported adequately by economic analysis or are not in the public interest.

(3) The Board may request the independent assessment team to assist the Board in making variations under subsection (2), and on being requested to assist, the independent assessment team shall do so.

Effect of
arrangements
relating to Part
2 generating
units

45.92(1) A power purchase arrangement or negotiated settlement that relates to generating units listed in Part 2 of the Schedule has effect in accordance with its terms and conditions.

(2) On January 1, 2001, Parts 4 and 5 cease to apply to the generating units listed in Part 2 of the Schedule.

Public auction

45.93(1) One or more auctions shall be held for the purpose of offering for sale to the public power purchase arrangements

(a) that apply to generating units listed in Part 1 of the Schedule, and

(b) that have been approved or varied by the Board.

(2) The independent assessment team shall recommend to the Minister rules relating to the holding of an auction under this section, including

(a) the setting of limitations respecting

(i) the number of power purchase arrangements that may be purchased by one purchaser,

(ii) the types of power purchase arrangements that may be purchased by one purchaser, and

(iii) who is eligible to bid on power purchase arrangements,

(b) the setting of conditions and reserve prices, and

(c) the determination of any other matter relating to an auction.

(3) On receipt of recommendations from the independent assessment team, the Minister may by regulation establish the rules relating to the holding of an auction and to the auctioning of power purchase arrangements in the intervals recommended under section 45.5(6).

Minimum
amount of
generating
capacity

45.94(1) On receipt of a recommendation from the independent assessment team, the Minister shall set the minimum amount of generating capacity in respect of which power purchase arrangements must be sold at the public auction.

(2) If acceptable bids are not received at the public auction for at least the minimum amount of generating capacity set under subsection (1),

- (a) the public auction is cancelled, and
- (b) the independent assessment team shall, in accordance with the regulations, convert the power purchase arrangements to financial instruments.

(3) If acceptable bids are received at the public auction for at least the minimum amount of generating capacity set under subsection (1) but in respect of a particular power purchase arrangement no acceptable bid has been received, the terms and conditions of the power purchase arrangement must form the basis of a financial settlement determined in accordance with section 45.96(2) and the regulations.

(4) In this section, “acceptable bid” means a bid that meets the conditions set out in the rules established under section 45.93(3).

Effect of
arrangements
relating to Part
1 generating
units

45.95(1) A power purchase arrangement

- (a) that is sold at a public auction,
- (b) that is not sold at a public auction and is converted to a financial instrument under section 45.94(2), or
- (c) that is not sold at a public auction and forms the basis of a financial settlement under section 45.94(3)

and a negotiated settlement that relates to generating units listed in Part 1 of the Schedule have effect in accordance with their terms and conditions.

(2) On January 1, 2001, Parts 4 and 5 cease to apply to the generating units listed in Part 1 of the Schedule.

Balancing pool

45.96(1) The price paid for a power purchase arrangement under section 45.93 shall be paid, in accordance with the regulations,

- (a) into the balancing pool if the amount is more than \$0, or
- (b) out of the balancing pool if the amount is less than \$0.

(2) Where the terms and conditions of a power purchase arrangement are to form the basis of a financial settlement

under section 45.94(3), the owner of the generating unit and the person appointed under section 9(1)(b) shall, in accordance with the regulations, determine the difference between

- (a) the pool price, and
- (b) the cost of generating electricity pursuant to the power purchase arrangement,

and that difference shall be paid

- (c) into the balancing pool if the amount is more than \$0, or
- (d) out of the balancing pool if the amount is less than \$0.

(3) Any amount determined by the independent assessment team under section 45.5(2)(d) shall, on the completion of construction of a generating unit constructed after January 1, 2001, be paid into the balancing pool in accordance with the regulations.

(4) Revenues associated with small power production contracts under the *Small Power Research and Development Act* shall be paid into the balancing pool in accordance with the regulations.

(5) Costs associated with small power production contracts under the *Small Power Research and Development Act* shall be paid out of the balancing pool in accordance with the regulations.

(6) Any amount determined by the independent assessment team under section 45.5(2)(c) or 45.7(2) shall be paid out of the balancing pool in accordance with the regulations.

(7) Any net amount greater than \$0 in the balancing pool shall be allocated to consumers of electricity in Alberta and to the Transmission Administrator in accordance with the regulations.

(8) Any net amount less than \$0 in the balancing pool shall be provided by consumers of electricity in Alberta and by the Transmission Administrator in accordance with the regulations.

45.97 The Minister may make regulations

- (a) providing guidelines to be followed by the independent assessment team relating to
 - (i) modelling or forecasting the future financial performance of the generating units listed in the Schedule under various scenarios;
 - (ii) consulting with interested parties in respect of a proposal under section 45.4 or 45.6, including consulting on the input data and the assumptions used in the modelling, financial and economic assessments and risk factors, as well as the modelling approach;
 - (iii) developing the form and terms and conditions of power purchase arrangements and financial instruments, including provisions that set out the circumstances in which power purchase arrangements or financial instruments may be varied, suspended or terminated;
 - (iv) ensuring that interested parties receive adequate notice with respect to consultation sessions and the opportunity to make submissions to the independent assessment team and to comment on other submissions, and ensuring that interested parties are given access to information provided to the independent assessment team;
- (b) respecting further duties and functions of the independent assessment team;
- (c) specifying information that may be required under section 45.4(2)(e) or 45.6(2)(b);
- (d) respecting the treatment of costs and valuations provided under section 45.4(3)(d);
- (e) respecting the holding of a public auction;
- (f) respecting the standard of credit-worthiness required to be eligible to bid at a public auction;
- (g) respecting the requirement to provide performance security to be eligible to bid at a public auction;
- (h) respecting the requirements to be met to be eligible to hold a financial instrument or to hold a power

purchase arrangement after it has been sold at a public auction;

- (i) respecting the calculation of administrative costs of conducting a public auction and the payment of those costs;
- (j) respecting the conversion of a power purchase arrangement to a financial instrument when a public auction is cancelled;
- (k) respecting conditions that apply to the sale of coal rights and any other property referred to in section 45.4(6) and to the sale of generating units listed in the Schedule;
- (l) setting out guidelines for the purposes of section 45.5(4);
- (m) respecting costs incurred in the generation of electricity by generating units listed in Part 2 of the Schedule for the purposes of this Part;
- (n) respecting the circumstances in which excess electric energy referred to in section 45.5(5) must be exchanged through the power pool for the benefit of the owner of the generating unit;
- (o) respecting the circumstances in which a 2nd power purchase arrangement determined under section 45.5(2)(b) may be varied if the owner of the generating unit decides to make an investment in it to provide a life extension period for the generating unit;
- (p) respecting the options available to the owner of a generating unit listed in Part 1 of the Schedule at the end of the effective term if the owner decides not to make an investment in it to provide a life extension period for the generating unit;
- (q) respecting the provision of system support services to the Transmission Administrator pursuant to a power purchase arrangement;
- (r) respecting the establishment and operation by the Power Pool Council of a balancing pool, including the calculation of amounts to be paid into or out of the balancing pool, at what interval those amounts are to be paid into or out of the balancing pool and by whom;

- (s) respecting the determination of a financial settlement by the owner of a generating unit and the person appointed under section 9(1)(b);
- (t) respecting the treatment under section 78(1) of the costs relating to the person or persons appointed to act as the independent assessment team;
- (u) extending any date or lengthening any period expressly specified in this Part;
- (v) correcting an error in the Schedule;
- (w) respecting any other matter that the Minister considers necessary or advisable to carry out the intent of this Part;
- (x) to deal with any difficulty or impossibility resulting from the enactment of this Part or the transition from Parts 4 and 5 to this Part.

Liability
protection

45.98 No action may be brought against the independent assessment team or any member of it, and the independent assessment team and each member of it are not liable, for any real or perceived loss or damage resulting from any determination made by the independent assessment team or from the implementation of any determination made by the independent assessment team under this Part.

Not taking of
property by
the Crown

45.99(1) Any determination or decision made or action taken under this Part or the implementation of any determination or decision made or action taken under this Part does not constitute the taking of property by the Crown.

(2) Any regulation made under this Act that is necessary or advisable to carry out the intent of this Part, or the implementation of any of those regulations, does not constitute the taking of property by the Crown.

Date when
Part 4.1 no
longer applies

45.991(1) This Part ceases to apply to a generating unit listed in the Schedule at 12 midnight on the earlier of

- (a) the last day of the base life of the generating unit or the last day of the life extension period, if any, of the generating unit, and
- (b) December 31, 2020.

(2) The date in subsection (1)(b) shall not be changed as a result of a regulation made under section 45.97(u).

30 Section 49 is amended

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

(2.1) On receiving or delivering a notice of intention to terminate, the Transmission Administrator may prepare a recovery tariff and apply to the Board for approval of the tariff.

(b) in subsection (5) by striking out “or” at the end of clause (a) and by adding the following after clause (b):

(c) the increases or decreases in costs that occur when the operation of Part 4, or any provision of it, is suspended pursuant to regulations made under section 44(1), or

(d) other related costs approved by the Board.

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

(6) An application under this section for Board approval of a tariff is required for tariffs prepared under sections 27, 29, 31, 31.5, 31.6, 31.9, 31.97 and this section.

31 The following is added after section 52:

Special
considerations
relating to
Transmission
Administrator's
tariff

52.1(1) The Board shall not decide that a tariff referred to in section 49(2) fails to satisfy the requirements of section 51(1) simply because the tariff provides for the flow through, including by the use of deferral accounts, real time pricing or other mechanisms, of some or all of the Transmission Administrator's prudent costs and expenses of carrying out the duties and functions given to it under this Act.

(2) A tariff referred to in section 49(2) must provide the Transmission Administrator with a reasonable opportunity to recover the following in addition to the costs specified in section 52(1):

(a) prudent costs and expenses incurred by or on behalf of the Transmission Administrator prior to the date of its appointment, for the purpose of preparing to carry out the duties and functions given to it under this Act;

(b) a management fee, in respect of a period commencing prior to the date of the Transmission

30 Section 49 presently reads:

49(1) The owner of an electric utility shall prepare a tariff relating to the electric utility and apply to the Board for approval of the tariff.

(2) The Transmission Administrator shall prepare a tariff relating to the transmission system and apply to the Board for approval of the tariff.

(3) A tariff must describe how it may change over the period in which it is intended to have effect.

(4) A tariff may provide for maximum rates.

(5) A tariff may provide for increases or decreases in the rates to correspond to

*(a) increases or decreases in fuel costs, taxes or other costs,
or*

(b) price indices, rates of inflation or similar measurements.

31 New sections relating to tariffs of the Transmission Administrator.

Administrator's appointment but not prior to the date specified for the purposes of subsection (3), for the purpose of preparing to carry out the duties and functions given to the Transmission Administrator under this Act;

- (c) a management fee in respect of a period commencing after the date of the Transmission Administrator's appointment during which the tariff is in effect.

(3) The Transmission Administrator is not entitled to recover through its tariff

- (a) any costs and expenses referred to in subsection (2)(a), or
- (b) any management fee referred to in subsection (2)(b) or (c)

relating to a period prior to the date specified by the Minister.

(4) The Minister shall advise the Board in writing of the date specified for the purposes of subsection (3).

(5) In determining whether a management fee is reasonable compensation to the Transmission Administrator, the Board shall consider the extent to which the Transmission Administrator's tariff provides for

- (a) incentives for efficiencies that result in cost savings or other benefits that can be shared in an equitable manner between the Transmission Administrator and its customers, and
- (b) incentives for performance by the Transmission Administrator.

Recovery tariff

52.2(1) When considering an application under section 49(2.1), the Board shall have regard for the principle that a recovery tariff approved by it must provide the Transmission Administrator with a reasonable opportunity to recover

- (a) a management fee,
- (b) all unrecovered capital costs and investments of the Transmission Administrator, with due allowance made for the cost of capital,

- (c) the costs and expenses incurred by the Transmission Administrator to end its duties and functions under this Act, including
 - (i) costs and expenses of disengaging from all prudent financial or contractual arrangements entered into by the Transmission Administrator,
 - (ii) prudent demobilization costs and expenses, and
 - (iii) outstanding amounts owed to the Transmission Administrator from any deferral account,
 - (d) any losses arising during the period commencing on the date of delivery of the notice of intention to terminate and expiring on the date on which the termination of the appointment of the Transmission Administrator is effective, as a result of the tariff in effect during that period being insufficient to cover the costs and expenses of the Transmission Administrator,
 - (e) any other prudent costs and expenses incurred by the Transmission Administrator for which it has not been reimbursed, and
 - (f) interest, if any, accrued at a reasonable rate on the amounts described in clauses (a) to (e), from the date on which the termination of the appointment of the Transmission Administrator is effective to the date those amounts are fully recovered.
- (2) If the notice period in a notice of intention to terminate is less than 365 days and does not give the Transmission Administrator sufficient time to submit a recovery tariff to the Board before the notice is effective, the replacement Transmission Administrator shall, at the request of the former Transmission Administrator, submit the recovery tariff to the Board on behalf of and for the benefit of the former Transmission Administrator if the request is made within 90 days after the termination of the appointment of the former Transmission Administrator is effective.
- (3) A recovery tariff submitted to the Board by the replacement Transmission Administrator under subsection (2) is deemed to be part of the replacement Transmission Administrator's tariff.
- (4) If after the termination of the appointment of the Transmission Administrator is effective the former Transmission Administrator is entitled to receive additional

revenue through a recovery tariff, through the operation of section 57.1 or through any other applicable tariff, that revenue is deemed to be part of the tariff of the replacement Transmission Administrator, and the replacement Transmission Administrator shall pay the additional revenue to the former Transmission Administrator as soon as reasonably possible and

- (a) within 12 months after the termination is effective, or
- (b) in the event that a recovery tariff has been submitted on behalf of the former Transmission Administrator pursuant to subsection (2), within 3 months after the approval of the recovery tariff by the Board,

whichever is later.

32 The following is added after section 57:

Request for
review of tariff

57.1(1) On receiving or delivering a notice of intention to terminate, the Transmission Administrator may ask the Board to review the Transmission Administrator's tariff.

(2) The receipt or delivery of a notice of intention to terminate is a circumstance, in addition to those circumstances set out in section 57(2), that entitles the Board to review the Transmission Administrator's tariff if requested to do so under subsection (1).

(3) On completing its review, the Board may approve, vary or rescind the tariff or direct the Transmission Administrator to prepare a recovery tariff.

33 The heading preceding section 71 is repealed and the following is substituted:

PART 7

**REGULATIONS, MINISTERIAL ORDERS,
BOARD RULES AND OFFENCES**

34 Section 71(1) is amended

- (a) by repealing clause (a);
- (b) by adding the following after clause (f):

32 Review of tariff.

33 Existing heading presently reads:

PART 7

REGULATIONS, BOARD RULES AND OFFENCES

34 Section 71(1)(a) presently reads:

71(1) The Lieutenant Governor in Council may make regulations

(a) amending the list of corporations and other entities set out in sections 7(1) and 18(1) if there is a substantial

- (f.1) continuing, with or without modification, the protection from liability provided to a power pool person under section 12.1;
- (f.2) respecting all aspects of the ongoing investment in regulated generating units to maintain their capacity or extend their life;
- (f.3) respecting the treatment after December 31, 2000 of the rights and obligations of rural electrification associations under contracts that are in existence at the time this clause comes into force and that are made with owners of electric utilities, where the rights and obligations are necessary or advisable to carry out the intent of this Act;

35 Section 72 is amended

(a) in subsection (1)

(i) by adding the following after clause (a):

- (a.1) clarifying any power, duty or function conferred or imposed on any person or class of persons under this Act;
- (a.2) clarifying the liability of any person or class of persons relating to any power, duty or function conferred or imposed under this Act;

(ii) by adding the following after clause (d):

- (e) suspending the operation of any provision of this Act if, in the Minister's opinion, suspension is necessary or advisable to carry out the intent of this Act.

(b) in subsection (4) by striking out "1997" and substituting "2000".

change in the nature and extent of the interest in the Alberta electric industry of any of those corporations or other entities;

35 Section 72 presently reads:

72(1) The Lieutenant Governor in Council may make regulations

- (a) conferring or imposing on any person or class of persons engaged in the generation, pooling, transmission, distribution, exchange, purchase or sale of electricity any power, duty or function necessary to carry out the purposes of this Act;*
- (b) allocating, determining, fixing or prescribing anything required by this Act to be allocated, determined, fixed or prescribed, including the manner of allocation, determination, fixing or prescription, if not specified in this Act;*
- (c) respecting any matters, in addition to those specified in this Act, to be considered by the Board in making an order under this Act;*
- (d) respecting any matter that the Minister considers is not provided for or is insufficiently provided for in this Act.*

(2) A regulation made under this section is repealed on the earliest of

- (a) the coming into force of an amendment to this Act that adds the matter to this Act,*
- (b) the coming into force of a regulation that repeals the regulation made under subsection (1), and*
- (c) 2 years after the regulation comes into force.*

Ministerial
orders

36 The following is added after section 72:

72.1 The Minister may, by order,

- (a) amend the list of corporations and other entities set out in section 18(1), and
- (b) amend the list of corporations set out in section 1(1)(i)

if there is a substantial change in the nature and extent of the interest in the Alberta electric industry of any of those corporations or other entities.

37 Section 73 is amended

(a) in subsection (4)(b) by adding “and consumed by” after “produced from”;

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

(4.1) A rule made under subsection (4)(b) may

- (a) provide an exemption from the operation of all or any provision of this Act,
- (b) apply to electric energy produced from and consumed by the whole or any part of an industrial system, and
- (c) impose terms and conditions.

(4.2) Where the Board has designated the whole or any part of an electric system as an industrial system pursuant to section 2.2(5) of the *Hydro and Electric Energy Act* and is considering making a rule under subsection (4)(b) in relation to that industrial system, the Board may impose the following conditions:

- (a) that the owner of the industrial system be responsible for paying a just and reasonable share of
 - (i) the reservation payments under Part 4,

(3) The repeal of a regulation under subsection (2)(b) or (c) does not affect anything done, incurred or acquired under the authority of the regulation.

(4) No regulation shall be made under subsection (1) after December 31, 1997.

(Note: Pursuant to section 1(1) of AR 234/97, AR 252/97 extends the date specified in section 72(4) to August 31, 1998.)

36 Adds new powers of the Minister.

37 Section 73(4) presently reads:

(4) The Board may make rules

(a) exempting any facility or class of facilities, other than regulated generating units listed in the Schedule, from the definition in section 1(1)(f), and

(b) exempting from the operation of this Act the electric energy produced from an industrial system.

(ii) the amounts that will be payable under Part 4.1 in place of reservation payments after December 31, 2000, and

(iii) the transmission costs associated with the interconnected electric system,

and

(b) that the owner of the industrial system be entitled to receive

(i) the benefit of a just and reasonable share of the entitlements under Part 4, and

(ii) the amounts that will be paid out of the balancing pool under Part 4.1 in place of the entitlements after December 31, 2000.

38 Section 78 is amended

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

Approved
professional
costs

78(1) The Minister may approve the professional and other costs relating to the development and implementation of this Act, amendments to this Act and the regulations, including the costs relating to the independent assessment team under Part 4.1.

(b) by repealing subsection (2) and substituting the following:

(2) In determining the aggregate reservation price to apply for 1998, 1999 and 2000, the Board shall include the costs approved under subsection (1) in respect of those years.

39 The Schedule is repealed and the following is substituted:

SCHEDULE

PART 1: REGULATED GENERATING UNITS

Generating Unit	Owner	Type of Plant	Base Life
Barrier #1	TAU	hydro	2010
Battle River #1	APL	coal-fired thermal	1999
Battle River #2	APL	coal-fired thermal	1999

38 Section 78 presently reads:

78(1) The Minister may approve on a one-time basis the professional and other costs relating to the development and implementation of this Act.

(2) In determining the aggregate reservation price under section 76(b), the Board shall include the costs approved under subsection (1).

39 Amendments to the Schedule.

Battle River #3	APL	coal-fired thermal	2009
Battle River #4	APL	coal-fired thermal	2009
Battle River #5	APL	coal-fired thermal	2021
Bearspaw #1	TAU	hydro	2019
Bighorn #1	TAU	hydro	2032
Bighorn #2	TAU	hydro	2032
Brazeau #1	TAU	hydro	2025
Brazeau #2	TAU	hydro	2025
Cascade #1	TAU	hydro	2012
Cascade #2	TAU	hydro	2012
Clover Bar #1	EP	gas-fired thermal	2010
Clover Bar #2	EP	gas-fired thermal	2010
Clover Bar #3	EP	gas-fired thermal	2010
Clover Bar #4	EP	gas-fired thermal	2010
Genesee #1	EP	coal-fired thermal	2029
Genesee #2	EP	coal-fired thermal	2029
Ghost #1	TAU	hydro	2019
Ghost #2	TAU	hydro	2019
Ghost #3	TAU	hydro	2019
Ghost #4	TAU	hydro	2019
Horseshoe #1	TAU	hydro	2011
Horseshoe #2	TAU	hydro	2011
Horseshoe #3	TAU	hydro	2011
Horseshoe #4	TAU	hydro	2011
H.R. Milner	APL	coal-fired thermal	2012
Interlakes #1	TAU	hydro	2010
Kananaskis #1	TAU	hydro	2013
Kananaskis #2	TAU	hydro	2013
Kananaskis #3	TAU	hydro	2013
Keephills #1	TAU	coal-fired thermal	2023
Keephills #2	TAU	coal-fired thermal	2023
Pocaterra #1	TAU	hydro	2010
Rainbow #1	APL	gas turbine	2000
Rainbow #2	APL	gas turbine	2000
Rainbow #3	APL	gas turbine	2000
Rossdale #8	EP	gas-fired thermal	2000
Rossdale #9	EP	gas-fired thermal	2000
Rossdale #10	EP	gas-fired thermal	2000
Rundle #1	TAU	hydro	2011
Rundle #2	TAU	hydro	2011
Sheerness #1	APL/TAU	coal-fired thermal	2026
Sheerness #2	APL/TAU	coal-fired thermal	2026
Spray #1	TAU	hydro	2011
Spray #2	TAU	hydro	2011
Sturgeon #1	APL	gas turbine	1998
Sturgeon #2	APL	gas turbine	1998
Sundance #1	TAU	coal-fired thermal	2010
Sundance #2	TAU	coal-fired thermal	2010
Sundance #3	TAU	coal-fired thermal	2016
Sundance #4	TAU	coal-fired thermal	2016
Sundance #5	TAU	coal-fired thermal	2018
Sundance #6	TAU	coal-fired thermal	2018
Three Sisters #1	TAU	hydro	2011

Wabamun #1	TAU	coal-fired thermal	2003
Wabamun #2	TAU	coal-fired thermal	2003
Wabamun #3	TAU	coal-fired thermal	2003
Wabamun #4	TAU	coal-fired thermal	2003

PART 2

ISOLATED REGULATED GENERATING UNITS

Generating Unit	Owner	Type	Rating (kW)
CUL 5	APL	Thermal	100
CUL 43	APL	Thermal	3000
CUL 47	APL	Thermal	3000
CUL 65	APL	Hydro	500
CUL 66	APL	Hydro	900
CUL 144	APL	Thermal	10
CUL 145	APL	Thermal	10
CUL 146	APL	Thermal	10
CUL 147	APL	Thermal	10
CUL 148	APL	Thermal	10
CUL 153	APL	Thermal	10
CUL 154	APL	Thermal	10
CUL 155	APL	Thermal	20
CUL 183	APL	Thermal	1000
CUL 185	APL	Thermal	150
CUL 187	APL	Thermal	750
CUL 189	APL	Thermal	3000
CUL 190	APL	Thermal	3000
CUL 191	APL	Thermal	1000
CUL 194	APL	Thermal	200
CUL 195	APL	Thermal	800
CUL 198	APL	Thermal	2100
CUL 201	APL	Thermal	50
CUL 203	APL	Thermal	50
CUL 204	APL	Thermal	50
CUL 205	APL	Thermal	50
CUL 206	APL	Thermal	50
CUL 208	APL	Thermal	50
CUL 213	APL	Thermal	250
CUL 214	APL	Thermal	30
CUL 215	APL	Thermal	30
CUL 216	APL	Thermal	30
CUL 217	APL	Thermal	30
CUL 218	APL	Thermal	30
CUL 220	APL	Thermal	20
CUL 221	APL	Thermal	20
CUL 222	APL	Thermal	20
CUL 226	APL	Thermal	150

CUL 228	APL	Thermal	150
CUL 231	APL	Thermal	80
CUL 232	APL	Thermal	15
CUL 238	APL	Thermal	150
CUL 239	APL	Thermal	150
CUL 241	APL	Thermal	1085
CUL 242	APL	Thermal	40
CUL 245	APL	Thermal	100
CUL 246	APL	Thermal	100
CUL 248	APL	Thermal	100
CUL 250	APL	Thermal	200
CUL 251	APL	Thermal	200
CUL 252	APL	Thermal	125
CUL 253	APL	Thermal	125
CUL 254	APL	Thermal	400
CUL 255	APL	Thermal	400
CUL 256	APL	Thermal	400
CUL 263	APL	Thermal	100
CUL 264	APL	Thermal	60
CUL 266	APL	Thermal	1085
CUL 268	APL	Thermal	200
CUL 269	APL	Thermal	80
CUL 272	APL	Thermal	1000
CUL 273	APL	Thermal	40
CUL 274	APL	Thermal	40
CUL 280	APL	Thermal	60
CUL 281	APL	Thermal	500
CUL 282	APL	Thermal	325
CUL 286	APL	Thermal	165
CUL 287	APL	Thermal	165
CUL 291	APL	Thermal	20
CUL 294	APL	Thermal	1000
CUL 295	APL	Thermal	1000
CUL 296	APL	Thermal	160
CUL 298	APL	Thermal	165
CUL 300	APL	Thermal	165
CUL 301	APL	Thermal	160
CUL 302	APL	Thermal	250
CUL 306	APL	Thermal	150
CUL 307	APL	Thermal	150
CUL 308	APL	Thermal	150
CUL 309	APL	Thermal	150
CUL 314	APL	Thermal	300
CUL 315	APL	Thermal	500
CUL 318	APL	Thermal	300
CUL 319	APL	Thermal	300
CUL 320	APL	Thermal	300
CUL 321	APL	Thermal	300
CUL 323	APL	Thermal	500
CUL 325	APL	Thermal	1000
CUL 326	APL	Thermal	1000

CUL 327	APL	Thermal	200
CUL 328	APL	Thermal	200
CUL 329	APL	Thermal	200
CUL 330	APL	Thermal	500
CUL 331	APL	Thermal	1000
CUL 332	APL	Thermal	150
CUL 333	APL	Thermal	150
CUL 334	APL	Thermal	500
CUL 335	APL	Thermal	500
CUL 336	APL	Thermal	500
CUL 337	APL	Thermal	500
CUL 338	APL	Thermal	500
CUL 339	APL	Thermal	500
CUL 340	APL	Thermal	500
CUL 342	APL	Thermal	300
CUL 351	APL	Thermal	125
CUL 358	APL	Thermal	500
CUL 359	APL	Thermal	500
CUL 360	APL	Thermal	1400
CUL 361	APL	Thermal	500
CUL 362	APL	Thermal	40
CUL 363	APL	Thermal	30
CUL 365	APL	Thermal	750
CUL 366	APL	Thermal	500
CUL 368	APL	Thermal	2880
CUL 369	APL	Thermal	75
CUL 373	APL	Thermal	175
CUL 374	APL	Thermal	300
CUL 380	APL	Thermal	300
CUL 381	APL	Thermal	500
CUL 382	APL	Thermal	250
CUL 383	APL	Thermal	250
CUL 386	APL	Thermal	30
CUL 387	APL	Thermal	425
CUL 388	APL	Thermal	450
CUL 389	APL	Thermal	71
CUL 390	APL	Thermal	71
CUL 391	APL	Thermal	1000
CUL 392	APL	Thermal	1000
CUL 393	APL	Thermal	1000
CUL 394	APL	Thermal	425
CUL 395	APL	Thermal	500
CUL 396	APL	Thermal	300
CUL 398	APL	Thermal	325
CUL 399	APL	Thermal	350

40 The following regulations are repealed:

40 Repeal of regulations passed under the Act.

- (a) the *Change in List of Corporations and Entities Regulation* (AR 232/97);
- (b) the *Time Extension Regulation* (AR 234/97);
- (c) the *Deficiency Correction Regulation, 1997* (AR 235/97);
- (d) the *Transmission Administrator Deficiency Correction Regulation* (AR 236/97);
- (e) the *Time Extension Order* (AR 252/97);
- (f) the *Power Pool Council Deficiency Correction Regulation* (AR 40/98).

41(1) When considering whether to approve the Transmission Administrator's tariff that is intended to be effective for the first 24 months of ESBI Alberta Ltd.'s appointment as the Transmission Administrator, the Board shall, if requested by ESBI Alberta Ltd., have regard to the principle that a tariff approved by it must provide ESBI Alberta Ltd. with a reasonable opportunity to recover, on a flow through basis, including by the use of deferral accounts, real time pricing or other mechanisms, all prudent costs and expenses incurred by the Transmission Administrator in connection with the carrying out of its duties and functions under the *Electric Utilities Act* during that 24-month period, if the tariff otherwise provides for

- (a) incentives for efficiencies that result in cost savings or other benefits that can be shared in an equitable manner between ESBI Alberta Ltd. and its customers, or
- (b) transitional milestones that will aid in the development of the incentives referred to in clause (a) in the future.

(2) Despite section 52.1(4) of the *Electric Utilities Act*, the date for the purposes of section 52.1(3) of the *Electric Utilities Act* is July 21, 1997 in respect of ESBI Alberta Ltd.

(3) Where ESBI Alberta Ltd. has been named in an Order in Council to become the Transmission Administrator, a reference to "Transmission Administrator" or "former Transmission Administrator" in the *Electric Utilities Act* includes ESBI Alberta Ltd.

(4) Where ESBI Alberta Ltd. has been named in an Order in Council to become the Transmission Administrator and that appointment is deemed, pursuant to an agreement between the Minister and ESBI Alberta Ltd., to terminate before the appointment becomes effective,

41 Transitional provisions.

- (a) the Grid Company of Alberta Inc. shall, at the request of ESBI Alberta Ltd., ask the Board to review the Transmission Administrator's tariff and, on being asked to do so, the Board may review the tariff for the purpose of giving effect to this subsection,
 - (b) section 52.2(2) of the *Electric Utilities Act* applies as if
 - (i) a notice of intention to terminate has been delivered or received by the Minister or by the Transmission Administrator, and
 - (ii) the notice period is less than 365 days and does not enable the Transmission Administrator to reasonably submit a recovery tariff to the Board while in office,
 - (c) ESBI Alberta Ltd. is deemed to be the former Transmission Administrator for the purposes of section 52.2(2) and (4) of the *Electric Utilities Act*, and
 - (d) the Grid Company of Alberta Inc. is deemed to be the replacement Transmission Administrator for the purposes of section 52.2(2), (3) and (4) of the *Electric Utilities Act*.
- (5) For the purposes of section 31.2, "affiliate" includes ESBI Energy Company, a body corporate organized under the laws of the State of Delaware in the United States of America.

42 The *Hydro and Electric Energy Act* is amended

(a) by adding the following after section 2.1:

Definition of
electric system
as industrial
system

2.2(1) The Board may designate the whole or any part of an electric system as an industrial system.

(2) Where the Board is considering an application for designation as an industrial system, the Board shall have regard to the following principles:

- (a) the designation must be consistent with the objective of giving appropriate economic signals so that integrated industrial processes can develop their own internal supply of electricity where that is the most economical source of generation;
- (b) the designation must support
 - (i) the development of the economical supply of generation to meet the requirements of integrated industrial processes,

42 Consequential amendments.

- (ii) the efficient exchange, with the interconnected electric system, of electric energy that is in excess of the industrial system's own requirements, and
 - (iii) the making of decisions respecting the location of generation and consumption facilities so that the efficiency of the interconnected electric system is improved, including improved voltage stability and reduction of losses and congestion on transmission lines;
 - (c) the designation must not facilitate
 - (i) the development of independent electric systems that attempt to avoid costs associated with the interconnected electric system, and
 - (ii) uneconomical by-pass of the interconnected electric system;
 - (d) duplication of the interconnected electric system must be avoided where it is more economical to use the transmission facilities or electric distribution systems owned by persons in whose service area the industrial system is or will be located.
- (3) The Board may make a designation under subsection (1) if the Board is satisfied that all of the following criteria have been met:
- (a) the electric system includes a generating unit located on the property of the one or more industrial operations it is intended to serve, there is a high degree of integration of the electric system with one or more industrial operations the electric system forms part of and serves, and there is a high degree of integration of the components of the industrial operations;
 - (b) the industrial operations process a feedstock, produce a primary product or manufacture a product;
 - (c) there is a common ownership of all of the components of the electric system and the industrial operations;
 - (d) the whole of the output of each component within the industrial operation is used by that operation and is necessary to constitute its final products;

- (e) there is a high degree of integration of the management of the components and processes of the industrial operations;
 - (f) the application to the Board for a designation under subsection (1) demonstrates significant investment in both the expansion or extension of the industrial operations processes and the development of electricity supply;
 - (g) where an industrial operation extends beyond contiguous property, the owner of the industrial operation satisfies the Board that the overall cost of providing the owner's own distribution or transmission facilities to interconnect the integral parts of the industrial operation is equal to or less than the tariffs applicable for distribution or transmission in the service area where the industrial operation is located.
- (4) Where the Board is not satisfied that subsection (3)(c) or (d) has been met, the Board may make a designation under subsection (1) if the Board is satisfied that all of the separately owned components and all of the industrial operations are components of an integrated industrial process.
- (5) Where the Board is not satisfied that all of clauses (a) to (g) of subsection (3) have been met, the Board may make a designation under subsection (1) if the Board is satisfied that
- (a) all of clauses (a) to (g) of subsection (3) and subsection (4) have been substantially met, and
 - (b) there is a significant and sustained increase in efficiency in a process of the industrial operation or in the production and consumption of electric energy by the industrial operation as a result of the integration of the electric system with the industrial operations the electric system forms part of and serves.
- (6) The Board may make regulations
- (a) defining any word or expression used in this section but not defined in this Act;
 - (b) respecting how the criteria in subsection (5)(b) may be met where a generating unit uses solution gas that would otherwise be flared to produce electricity.

(7) A regulation under subsection (6)(b) may be made only after the Board has assessed the impact on consumers of electricity in Alberta of the costs associated with the designation as industrial systems of facilities containing generating units that use solution gas that would otherwise be flared.

(8) In this section, “electric distribution system”, “electric energy”, “electricity”, “interconnected electric system” and “service area” have the meanings given to them in the *Electric Utilities Act*.

(b) by repealing section 3(1)(g);

(c) by repealing section 15(1) and substituting the following:

Exemption

15(1) Unless the Board directs otherwise, sections 12 to 14 do not apply

- (a) to a person transmitting or proposing to transmit electric energy over the person’s own land solely for the person’s own use by means of a line that does not cross a public highway, or
- (b) to the owner of an industrial system transmitting or proposing to transmit electric energy
 - (i) over land of which the owner of the industrial system is the owner or tenant, or
 - (ii) across a public highway dividing land that is owned or leased by the owner of the industrial system

for use solely by that industrial system.

(d) in section 17(2) by adding the following after clause (d):

- (e) require the owner to share and participate or otherwise combine its interests for the transmission or distribution of electric energy with any other owner of a transmission line or electric distribution system.

