

*Bill 19*  
*Mr. Ouellette*

## **BILL 19**

2003

### **GAS UTILITIES STATUTES AMENDMENT ACT, 2003**

*(Assented to , 2003)*

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

#### **Gas Distribution Act**

**Amends RSA 2000 cG-3**

**1(1) The *Gas Distribution Act* is amended by this section.**

**(2) The following is added after section 27:**

#### **Part 2.1 Provision of Gas Services To Customers**

##### **Interpretation**

**27.1(1)** In this Part,

- (a) “affiliated retailer” means a retailer that is an affiliate within the meaning of subsection (2);
- (b) “customer” means a consumer of gas who takes delivery of the gas at its place of consumption by means of a rural gas utility of a gas distributor;
- (c) “default rate tariff” means the rates, tolls or charges fixed by the board of directors of a gas distributor, and

the terms and conditions fixed by that board of directors, for gas services provided by a default supply provider;

- (d) “default supply provider” means a gas distributor, or a person authorized by a gas distributor, who provides gas services to customers pursuant to a default rate tariff;
- (e) “gas distribution service” means the service required to transport gas to customers by means of a rural gas utility, and includes any services the gas distributor is required to provide under this Act or the regulations, but does not include gas services within the meaning of clause (h);
- (f) “gas distribution tariff” means the rates, tolls or charges fixed by the board of directors of a gas distributor for gas distribution service provided by the gas distributor;
- (g) “gas distributor” means a rural gas co-operative association that owns a rural gas utility;
- (h) “gas services” means
  - (i) the gas that is provided and delivered, and
  - (ii) the services associated with the provision and delivery of the gas, including
    - (A) arranging for the exchange or purchase of the gas,
    - (B) making financial arrangements to manage the financial risk associated with the price of gas,
    - (C) arranging for gas distribution service,
    - (D) arranging for delivery of the gas to the gas distributor’s specified receipt point or points,
    - (E) storage, and
    - (F) any other services specified as gas services by the gas distributor in an extraordinary resolution under section 27.2;
- (i) “retail gas services” means those gas services that are specified as retail gas services by the gas distributor in an extraordinary resolution under section 27.2 and that

can be provided by a retailer directly to customers and are not provided under a default rate tariff;

- (j) “retailer” means a person who provides retail gas services, and includes an affiliated retailer.

(2) For the purposes of this Part, an entity is an affiliate of a gas distributor or default supply provider

(a) if the entity is

- (i) a corporation of which the gas distributor or default supply provider legally or beneficially owns or controls, directly or indirectly,

- (A) at least 10% of the voting shares or securities that are convertible into at least 10% of the voting shares, or

- (B) a exercisable option or right to purchase at least 10% of the voting shares or securities that are convertible into at least 10% of the voting shares,

- (ii) a unit or division of the gas distributor or default supply provider, or

- (iii) a member of a partnership or joint venture with the gas distributor or default supply provider,

or

- (b) if another person legally or beneficially owns or controls, directly or indirectly, at least a 10% interest in the entity and in the gas distributor or default supply provider, by way of voting shares, securities that are convertible into voting shares, an exercisable option or right to purchase voting shares or securities that are convertible into voting shares, or otherwise.

**Application**

**27.2(1)** Subject to subsection (2), this Part applies in respect of a gas distributor, its rural gas utility and its customers only where

- (a) the rural gas co-operative association that is the gas distributor has passed a resolution in accordance with this section, and
- (b) the resolution remains in effect.

(2) A rural gas co-operative association may, by extraordinary resolution within the meaning of the *Rural Utilities Act*,

- (a) resolve to make
  - (i) itself, as a gas distributor,
  - (ii) all or part of its rural gas utility, and
  - (iii) one or more classes of its customers,subject to this Part,
- (b) specify additional services as gas services for the purposes of section 27.1(1)(h), and
- (c) specify gas services as retail gas services for the purposes of section 27.1(1)(i).

(3) Where a rural gas co-operative association by extraordinary resolution repeals or otherwise terminates the operation of a resolution under subsection (2),

- (a) the repeal or termination does not affect the operation of agreements under this Part respecting the provision of retail gas services that are in effect when the repeal or termination takes effect, and
- (b) this Part continues to apply in respect of those agreements and the persons to whom those agreements apply until the agreements expire or are otherwise terminated.

**Quorum**

**27.3(1)** Notwithstanding anything in the *Rural Utilities Act* or the regulations under that Act, the quorum for the purposes of a general meeting at which an extraordinary resolution referred to in section 27.2(2) or (3) is to be considered or passed is

- (a) in the case of a rural gas co-operative association with 500 or fewer members, 25% of the members or 100, whichever is less, and
- (b) in the case of a rural gas co-operative association with more than 500 members, 25% of the members or 150, whichever is less.

(2) If at the time scheduled for the commencement of the general meeting the quorum required under subsection (1) is not present and is still not present one-half hour after that time, the extraordinary resolution must not be dealt with at that meeting, but the meeting may be continued and other business may be transacted at the meeting, subject to the quorum requirements of the *Rural Utilities Act* and the regulations under that Act.

(3) If a meeting is continued under subsection (2) and, during the meeting, the quorum required under subsection (1) is obtained, the extraordinary resolution may be dealt with at the meeting.

#### **Regulations**

**27.4(1)** The Lieutenant Governor in Council may make regulations

- (a) respecting the manner in which the functions of gas distributors, default supply providers and retailers are to be carried out;
- (b) respecting the powers, duties, rights and obligations of gas distributors, default supply providers, retailers and customers;
- (c) allowing gas distributors, default supply providers and retailers to authorize other persons to perform functions on their behalf, and governing the terms and conditions under which such an authorization may be given;
- (d) governing the powers, duties, rights and obligations of persons performing functions pursuant to an authorization referred to in clause (c);
- (e) allowing a gas distributor to authorize a person to act as a default supply provider;

- (f) respecting the responsibility of a gas distributor to develop and offer non-discriminatory gas distribution tariffs;
  - (g) respecting billing;
  - (h) establishing a code of conduct governing the relationship between
    - (i) a gas distributor and its default supply provider,
    - (ii) a gas distributor and its affiliated retailers, or
    - (iii) a gas distributor's default supply provider and an affiliated retailer,or any aspect of the activities of the parties in the relationship;
  - (i) governing the flow of information between gas distributors, default supply providers and retailers;
  - (j) respecting arrangements among gas distributors, default supply providers and retailers related to the performing of metering and billing and maintaining information systems;
  - (k) respecting records to be kept by gas distributors, default supply providers and retailers;
  - (l) authorizing the Minister to impose administrative penalties in respect of contraventions of the regulations;
  - (m) defining terms for the purposes of this Part or the regulations;
  - (n) respecting any other matter the Lieutenant Governor in Council considers necessary or advisable to carry out the intent of this Part;
  - (o) to deal with any difficulty or impossibility resulting from the operation of this Part or the regulations.
- (2)** No authorization may be given under subsection (1)(c) or (e) that lessens or removes the responsibility or liability of the gas distributor, default supply provider or retailer, as the case

may be, for carrying out the function in respect of which the authorization is given.

(3) Subject to the regulations and to the extraordinary resolution referred to in section 27.2(2), a customer of a gas distributor has the right to obtain gas services from a retailer or default supply provider for delivery to the customer by means of the gas distributor's rural gas utility, and for that purpose the gas distributor shall transport gas on behalf of the customer or the retailer or default supply provider at the rates, tolls or charges fixed by the gas distributor and on the terms and conditions imposed by the gas distributor.

(4) Subsection (3) applies notwithstanding

- (a) a privilege or franchise granted to a gas distributor by a municipality in Alberta, or
- (b) a franchise area approval under this Act,

whether or not the privilege, franchise or franchise area approval gives any exclusive rights to the person who holds the privilege, franchise or franchise area approval.

(5) Subject to the regulations, a gas distributor must provide gas services to customers pursuant to its default rate tariff.

#### **Effect on existing agreements and grants**

**27.5(1)** Agreements and grants, including privileges, franchises and franchise area approvals referred to in section 27.4(4), that are in existence on the effective date of an extraordinary resolution referred to in section 27.2(2) that relate to the provision of gas services by the gas distributor to its customers are preserved unless subsection (2) applies.

(2) An agreement or a grant, privilege, franchise or franchise area approval referred to in subsection (1) that is expressly or by necessary implication inconsistent with this Part is deemed to be amended to the extent necessary to make the agreement, grant, privilege, franchise or franchise area approval consistent with this Part.

#### **Scope of regulations**

**27.6** A regulation under section 27.4 may

- (a) be specific or general in its application and include conditions, restrictions and limitations;
- (b) apply to all of Alberta or any part of Alberta;
- (c) impose or confer on any person named in the regulation any power, duty, responsibility or function in respect of the regulations;
- (d) adopt or declare to be in force, with or without modifications, any code or standard specified or described in the regulations.

**(3) The *Gas Distribution Amendment Act*, RSA 2000 c13(Supp), is repealed.**

**(4) This section comes into force on Proclamation.**

### **Gas Utilities Act**

**Amends RSA 2000 cG-5**

**2(1) The *Gas Utilities Act* is amended by this section.**

**(2) Section 28 is repealed and the following is substituted:**

### **Part 2.1 Provision of Gas Services To Customers**

#### **Definitions**

**28** In this Part,

- (a) “affiliated retailer” has the meaning given to it in the regulations;
- (b) “customer” means a consumer of gas who takes delivery of the gas at its place of consumption by means of a gas distribution system of a gas distributor;
- (c) “default rate tariff” means the rates, tolls or charges fixed by the Board, and the terms or conditions fixed by the Board, for gas services provided by a default supply provider;



- (d) “default supply provider” means a gas distributor, or a person authorized by a gas distributor, who provides gas services to customers pursuant to a default rate tariff;
- (e) “gas distribution service” means the service required to transport gas to customers by means of a gas distribution system, and includes any services the gas distributor is required to provide by the Board or is required to provide under this Act or the regulations;
- (f) “gas distribution system” means a gas utility that delivers gas to customers through a system of pipelines, works, plant and equipment that is primarily a low pressure system;
- (g) “gas distribution tariff” means the rates, tolls or charges fixed by the Board, and the terms and conditions fixed by the Board, for gas distribution service provided by a gas distributor;
- (h) “gas distributor” means the owner, operator, manager or lessee of a gas distribution system;
- (i) “gas services” means
  - (i) the gas that is provided and delivered, and
  - (ii) the services associated with the provision and delivery of the gas, including
    - (A) arranging for the exchange or purchase of the gas,
    - (B) making financial arrangements to manage the financial risk associated with the price of gas,
    - (C) arranging for gas distribution service,
    - (D) arranging for delivery of gas to the gas distributor’s specified receipt point or points,
    - (E) storage,
    - (F) billing, collection and responding to customer billing inquiries,
    - (G) maintaining information systems, and

- (H) any other services specified by the Minister by order as gas services;
- (j) “retail gas services” means gas services that are provided by a retailer directly to customers and that are not provided under a default rate tariff;
- (k) “retailer” means a person who provides retail gas services, and includes an affiliated retailer;
- (l) “service area”, with respect to a gas distributor, means the area within which customers take delivery of gas at their place of consumption by means of the gas distribution system of the gas distributor;
- (m) “settlement system code” has the meaning given to it in the regulations.

#### **Regulations**

**28.1(1)** The Lieutenant Governor in Council may make regulations

- (a) respecting the manner in which the functions of gas distributors, default supply providers and retailers are to be carried out;
- (b) respecting the powers, duties, rights and obligations of gas distributors, default supply providers, retailers and customers;
- (c) allowing gas distributors, default supply providers and retailers to authorize other persons to perform functions on their behalf, and governing the terms and conditions under which such an authorization may be given;
- (d) governing the powers, duties, rights and obligations of persons performing functions pursuant to an authorization referred to in clause (c);
- (e) allowing the Board to approve persons authorized by gas distributors to act as default supply providers;
- (f) respecting the responsibility of a gas distributor to develop and offer non-discriminatory gas distribution tariffs;

- (g) respecting billing and who is responsible for performing that function, and respecting accuracy of billing;
- (h) establishing a code of conduct governing the relationship between
  - (i) a gas distributor and its default supply provider,
  - (ii) a gas distributor and its affiliated retailers, or
  - (iii) a gas distributor's default supply provider and an affiliated retailer,or any aspect of the activities of the parties in the relationship;
- (i) governing the flow of information between gas distributors, default supply providers and retailers;
- (j) respecting arrangements among gas distributors, default supply providers and retailers related to the performing of metering and billing and maintaining information systems;
- (k) respecting records to be kept by gas distributors, default supply providers and retailers;
- (l) authorizing the Board to impose administrative penalties in respect of contraventions of the regulations or a Board order;
- (m) authorizing the Board to establish or approve a settlement system code regarding the provision of gas services and gas distribution service in Alberta;
- (n) respecting the matters that the Board must or may consider or must not consider when considering an application by a gas distributor or default supply provider for approval of a gas distribution tariff or a default rate tariff;
- (o) defining terms for the purposes of this Part or the regulations;

- (p) respecting any other matter the Lieutenant Governor in Council considers necessary or advisable to carry out the intent of this Part;
- (q) to deal with any difficulty or impossibility resulting from the operation of this Part.

(2) No authorization may be given under subsection (1)(c) or (e) that lessens or removes the responsibility or liability of the gas distributor, default supply provider or retailer, as the case may be, for carrying out the functions in respect of which the authorization is given.

(3) Subject to the regulations, a customer has the right to obtain gas services from a retailer or default supply provider for delivery to the customer by the gas distributor in whose service area the customer's place of consumption is located, and for that purpose the gas distributor shall transport gas within the service area on behalf of the customer or the retailer or default supply provider at the rates, tolls or charges fixed by the Board and on the terms and conditions imposed by the Board.

(4) Subsection (3) applies notwithstanding

- (a) a privilege or franchise granted to a gas distributor by a municipality in Alberta, or
- (b) a franchise area approval under the *Gas Distribution Act*,

whether or not the privilege, franchise or franchise area approval gives any exclusive rights to the gas distributor.

(5) Subject to the regulations, a gas distributor must provide gas services to customers pursuant to a default rate tariff.

(6) Agreements and grants, including privileges, franchises and franchise area approvals referred to in subsection (4), that are in existence when this Part or any provision that amends this Part comes into force that relate to the transmission, distribution, exchange, purchase or sale of gas are preserved unless subsection (7) applies.

(7) An agreement or a grant, privilege, franchise or franchise area approval referred to in subsection (6) that is expressly or by necessary implication inconsistent with this Part or the provision is deemed to be amended to the extent necessary to

make the agreement, grant, privilege, franchise or franchise area approval consistent with this Part or the provision.

**(8)** The Minister may by order

- (a) approve the professional and other costs relating to the development and implementation of this Part, and
- (b) apportion the responsibility for the payment of those costs among gas distributors, or provide for the manner in which responsibility for the payment of those costs is to be apportioned among gas distributors.

**(9)** Costs that are paid by a gas distributor under subsection (8) are recoverable in the gas distributor's gas distribution tariff.

**Scope of regulations**

**28.2** Any regulation made under section 28.1 may

- (a) be specific or general in its application and include conditions, restrictions and limitations;
- (b) apply to all of Alberta or any part of Alberta;
- (c) impose or confer on any person named in the regulation any power, duty, responsibility or function in respect of the regulation;
- (d) adopt or declare to be in force, with or without modifications, any code or standard specified or described in the regulation.

**Service quality standards rules**

**28.3(1)** The Board may make and enforce rules regarding service quality standards for each gas distributor and default supply provider related to billing and billing services provided to customers.

**(2)** On application by a person having an interest, or on its own initiative, the Board may investigate to determine whether a gas distributor or default supply provider is meeting the service quality standards rules.

**(3)** If the Board is of the opinion that the gas distributor or default supply provider has failed or is failing to meet the

service quality standards rules, the Board may by order do all or any of the following:

- (a) direct the gas distributor or default supply provider to take any action to improve services that the Board considers just and reasonable;
- (b) direct the gas distributor or default supply provider to provide the customer with a credit, in an amount specified by the Board, to compensate the customer for the gas distributor's or default supply provider's failure to meet the service quality standards rules;
- (c) prohibit the gas distributor or default supply provider from engaging in any activity or conduct that the Board considers to be detrimental to customer service;
- (d) impose an administrative penalty of
  - (i) not more than \$100 000 a day for each day that a service quality standards rule is not met or complied with, or
  - (ii) not more than \$500 000 for contravention of a rule.

(4) An order of the Board under this section may be appealed in accordance with the *Alberta Energy and Utilities Board Act*.

#### **Enforcement of service quality standards orders**

**28.4(1)** Subject to the right to appeal an administrative penalty, if a person fails to pay an administrative penalty in accordance with the order imposing it, the Board may file a copy of the order with the clerk of the Court of Queen's Bench and, on being filed, the order has the same force and effect and may be enforced by the Board as if it were a judgment or order of the Court.

(2) Subject to the right of appeal, the Board may apply to the Court of Queen's Bench to enforce a Board order under section 28.3, other than an order to pay an administrative penalty, giving notice of the application to the person against whom enforcement is sought, in accordance with the *Alberta Rules of Court*.

(3) An application under subsection (2) must be accompanied with the original Board order or a certified copy of it.

(4) The Court of Queen's Bench may give judgment enforcing a Board order unless

- (a) the order is the subject of an appeal under the *Alberta Energy and Utilities Board Act*,
- (b) the order is the subject of judicial proceedings that put it in question, or
- (c) the order is not capable of enforcement in law.

**Regulations Act does not apply**

**28.5** The *Regulations Act* does not apply in respect of

- (a) a settlement system code referred to in section 28.1(1)(m),
- (b) service quality standards rules referred to in section 28.3, or
- (c) rules, practices and procedures referred to in section 28.51.

**Facilitated negotiation**

**28.51(1)** The Board shall recognize or establish rules, practices and procedures that facilitate

- (a) the negotiated settlement of matters arising under this Part, and
- (b) the resolution of complaints or disputes regarding matters arising under this Part.

(2) The rules, practices and procedures recognized or established under this section apply whether or not an application relating to an issue has been made to the Board.

**Powers of Board**

**28.52** As part of the rules, practices and procedures for the negotiated settlement of matters or the resolution of complaints or disputes, the Board may

- (a) provide for the appointment of mediators to assist parties in negotiating the settlement of an issue;

- (b) provide for the appointment of employees of the Board as mediators;
- (c) provide for employees of the Board to attend the settlement process;
- (d) recognize or establish rules to ensure that the parties to an issue receive
  - (i) adequate notice of the settlement process and the matters in issue,
  - (ii) adequate disclosure of the positions of the parties and the basis for those positions, and
  - (iii) an appropriate opportunity to participate in the settlement process;
- (e) recognize or establish rules governing the extent to which persons who are not parties, or classes of persons who are not parties, may participate in the settlement of an issue;
- (f) provide that, before an issue may become the subject of a hearing before the Board, the parties must attempt to negotiate a settlement of the issue in accordance with the Board's rules, practices and procedures;
- (g) determine whether any costs of negotiating the settlement of an issue are payable and, if so, by whom and to whom the costs are to be paid.

**Board approval of a settlement**

**28.53(1)** If a settlement of an issue that is within the jurisdiction of the Board has been negotiated, the Board may approve the settlement.

**(2)** Any issue dealt with in a settlement approved by the Board is not subject to further consideration in the hearing of the matter to which the settlement relates.

**(3)** Subject to subsection (4), the Board may require a party to provide to it any records relating to the settlement that it considers appropriate.



(4) The Board shall not receive or consider any submission, position, evidence or information provided by a party on a without prejudice or confidential basis in the course of negotiating a settlement under this Part without the express consent of that party.

**Limit on Board discretion**

**28.6** If the parties negotiate a settlement on the basis that the settlement is contingent on the Board's accepting the entire settlement, the Board must either approve the entire settlement or refuse it.

**Limit on mediators and facilitators**

**28.7** No person acting as a mediator or facilitator of a negotiated settlement or resolution of a complaint or dispute may participate in any proceedings of the Board arising from or relating to the issue without the express consent of all the parties to the issue.

**Board discretion**

**28.8(1)** When considering a settlement that has been negotiated, the Board

- (a) may accept confidential records from the parties to an issue and, on acceptance, must maintain the confidentiality of the records, and
- (b) may participate in or hold any discussions in private if the Board considers it necessary and if all parties to the issue have notice of the discussions.

(2) The duty of the Board to maintain the confidentiality of records provided to the Board under subsection (1)(a) prevails despite the *Freedom of Information and Protection of Privacy Act* for a period of at least 10 years following the end of the year in which the negotiated settlement to which the documents or information relates has completely expired.

**(3) Section 52 is repealed and the following is substituted:**

**Failure to comply with Board orders**

**52** A person who fails to comply with an order of the Board is guilty of an offence and liable to a fine of not more than \$100 000 a day for every day during which the default continues.

**(4) Section 55 is amended by adding** “or the regulations under Part 2.1” **after** “this Act” **wherever it occurs.**

**(5) Section 56 is repealed and the following is substituted:**

**Penalty**

**56** Subject to section 52, a person who is guilty of an offence under this Act is liable to a fine of not more than \$500 000.

**(6) This section comes into force on Proclamation.**

**Rural Utilities Act**

**Amends RSA 2000 cR-21**

**3(1) The *Rural Utilities Act* is amended by this section.**

**(2) Section 3 is amended**

**(a) in subsection (1) by striking out “Ten” and substituting “Five”;**

**(b) in subsection (2)(a) by striking out “10” and substituting “5”.**

**(3) Section 10(5) is repealed and the following is substituted:**

**(5) An association shall**

**(a) allow a member to inspect the membership register at reasonable times during business hours at the head office of the association or other place where the register is kept, subject to any bylaws of the association respecting the time and manner of inspection made by the association at a general meeting, and**

**(b) provide a copy of the membership register to a member on payment of a reasonable fee determined by the association.**

**(5.1) Unless the bylaws of the association provide otherwise, a member may advise the association in writing that that person’s name is not to be included in a copy of a membership register provided under this section, and in that case the association shall**

not include the name and shall include on the copy that is provided a statement that it is incomplete.

**(5.2)** A person who obtains a copy of the membership register

- (a) shall not release the membership register or any information in it to any other person without first obtaining the consent of the board of directors, and
- (b) shall not use the membership register or any information in it for any purpose other than communicating with the other members on matters specific to the affairs of the association.

**(4) Section 12 is amended by adding the following after subsection (4):**

**(5)** Notwithstanding subsection (4)(b), a person who is named as a member's attorney in an enduring power of attorney within the meaning of the *Powers of Attorney Act* and who has authority to act under the enduring power of attorney may, unless the enduring power of attorney provides otherwise, exercise the member's vote at a meeting of the association.

**(5) Section 17 is amended by striking out** "electricity or gas, or both," **and substituting** "one or more of electricity, gas or water".

**(6) Section 25 is amended**

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

**Voluntary winding-up**

**25(1)** The directors of an association may be authorized, by an extraordinary resolution passed at a general meeting of the association called for that specific purpose, to wind up the affairs of the association by appointing the Director, or another person approved by the Director, as liquidator and empowering the liquidator to take all necessary action for the winding-up of the association.

**(b) by repealing subsection (3);**

**(c) in subsection (4) by adding** "unless the bylaws provide for distribution on another basis" **after** "held".

**(7) The following is added after section 25:**

**Appointment of liquidator**

**25.1** On the appointment of the liquidator, all the powers of the directors cease except to the extent that the liquidator sanctions the continuation of those powers.

**Duties on appointment**

**25.2** On the liquidator's appointment the liquidator shall

- (a) give notice of the appointment to each claimant and creditor known to the liquidator,
- (b) publish notice of the appointment in a publication generally available to the public in the area where the association carries on business, requiring
  - (i) any person who is indebted to the association to render an account and pay any amount owing to the liquidator at the time and place specified,
  - (ii) any person who possesses property of the association to deliver it to the liquidator at the time and place specified, and
  - (iii) any person who has a claim against the association, whether liquidated, unliquidated, future or contingent, to present particulars of it in writing to the liquidator not later than 2 months after the first publication of the notice,
- (c) take the property of the association into custody and control, and
- (d) if at any time the liquidator determines that the association is unable to pay or to adequately provide for the discharge of its obligations, apply to the Court of Queen's Bench for directions.

**Liquidator to prepare statement of assets and liabilities**

**25.3** The liquidator shall, within 120 days after the liquidator's appointment, prepare a statement of the assets, debts and liabilities of the association and the values of the assets as shown by the liquidator's books and records and, if the liquidator is a person other than the Director, the liquidator shall send to the Director a true copy of the statement.

### **Powers of liquidator**

**25.4(1)** A liquidator may

- (a) retain any person the liquidator considers appropriate to assist in the liquidation,
- (b) bring, defend or take part in any civil, criminal, administrative, investigative or other action or proceeding in the name of and on behalf of the association,
- (c) carry on the business of the association as required for an orderly liquidation,
- (d) sell any property of the association by public auction or private sale,
- (e) do all acts and execute any documents in the name of and on behalf of the association,
- (f) borrow money on the security of the property of the association,
- (g) settle or compromise any claims by or against the association, and
- (h) do all other things necessary for the liquidation of the association and the distribution of its property.

**(2)** The liquidator shall, in priority to all other debts, pay the valid claim that any person employed by the association has for unpaid wages or salary earned during the 3 months immediately before the appointment of the liquidator.

**(3)** When the liquidator is a person other than the Director, the liquidator shall not exercise any of the powers referred to in subsection (1)(a), (b), (c), (d), (f) or (g) without first obtaining the approval in writing of the Director.

### **Recovery of property**

**25.5(1)** If a liquidator has reason to believe that any property of the association is in the possession or control of a person or that any person has concealed, withheld or misappropriated any property of the association, the liquidator may apply to the Court of Queen's Bench for an order requiring the person to

appear before the Court to be examined at the time and place designated in the order.

(2) If the examination referred to in subsection (1) discloses that the person

- (a) has in that person's possession or under that person's control property of the association, or
- (b) has concealed, withheld or misappropriated property of the association,

the Court may order the person to restore it or to pay compensation to the liquidator.

#### **Protection from liability**

**25.6(1)** A liquidator is not liable in an action based on the liquidator's failure to fulfil his or her duties if he or she shows that he or she exercised the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances to prevent the failure, including reliance in good faith on financial statements of the association, reports of experts and information presented by officers or professionals.

(2) The acts of a liquidator are valid notwithstanding any defects that are afterwards discovered in the liquidator's appointment or qualifications.

#### **Appointment of new liquidator**

**25.7** If a liquidator who is not the Director resigns, dies or is removed from the office of liquidator, the Director may appoint a person to fill the vacancy.

#### **Remuneration**

**25.8** A liquidator is entitled to remuneration that is fixed by the Court of Queen's Bench on application of the liquidator.

#### **Application to judge to approve accounts**

**25.9(1)** When the liquidator

- (a) has realized all the property of the association or so much of it as can, in the liquidator's opinion, be realized without needlessly protracting the liquidation,
- (b) has distributed a final dividend, if any, to the creditors, and

- (c) has adjusted the rights of the members of the association among themselves,

the liquidator shall apply to the Court of Queen's Bench for directions relating to the filing of the liquidator's accounts and to fix a day for the hearing of an application for an order approving the liquidator's accounts, fixing the liquidator's remuneration, discharging the liquidator and declaring the association dissolved.

(2) In fixing a day for the hearing of the application, the Court shall give all necessary directions relating to the notices to be given and the evidence to be adduced by affidavit or otherwise on the application.

(3) On the hearing of the application, the Court may grant or refuse it in whole or in part and may make any order that in the circumstances it considers proper having regard to the evidence adduced.

(4) The liquidator shall file a true copy of the order with the Registrar within 15 days from the date of the order.

**(8) Section 31(5) and (6) are repealed and the following is substituted:**

(5) A person who is guilty of an offence under section 10(5.2) is liable to a fine of not more than \$50 000.

(6) A person who is guilty of an offence, other than an offence under section 10(5.2), is liable to a fine of not more than

- (a) \$500, in the case of an individual, or
- (b) \$1000, in the case of an association or other corporation.

**Explanatory Notes**

**Gas Distribution Act**

1(1) Amends chapter G-3 of the Revised Statutes of Alberta 2000.

(2) New Part governing the regulation of gas services obtained from retailers.

(3) Repeals chapter 13(Supp) of the Revised Statutes of Alberta 2000.

(4) Coming into force.

### **Gas Utilities Act**

**2(1)** Amends chapter G-5 of the Revised Statutes of Alberta 2000.

(2) Section 28 presently reads:

*28(1) In this section,*

- (a) “consumer” means a consumer of gas who takes delivery of the gas at its place of consumption by means of the gas distribution system of a distributor;*
- (b) “direct seller” means a person, other than a distributor, who sells gas to a consumer or to another person who purchases the gas as an agent of the consumer for the purposes of this section;*
- (c) “distributor” means the operator of a gas utility for the distribution of gas to consumers in all or part of a municipality.*

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

- (a) establishing classes of consumers for the purposes of this section;*



- (b) *respecting the conditions to which the rights of consumers under subsection (3) are subject;*
- (c) *governing, with respect to any matters provided for in the regulations, the rights and obligations of*
  - (i) *distributors,*
  - (ii) *direct sellers,*
  - (iii) *consumers, and*
  - (iv) *agents of consumers for the purposes of this section.*

*(3) Subject to the regulations, a consumer has the right to obtain a supply of gas from a direct seller for delivery to the consumer by means of the gas distribution system of a distributor, and for that purpose the Board may require the distributor to transport gas by means of the distributor's gas distribution system on behalf of the consumer or the direct seller at the rates, tolls or charges fixed by the Board and on the terms and conditions imposed by the Board.*

*(4) Subsection (3) applies notwithstanding any municipal gas franchise held by the distributor, whether or not it grants any exclusive rights to the distributor.*

*(5) Section 45 of the Municipal Government Act does not apply to the sale of gas by a direct seller to a consumer or to another person who purchases the gas as an agent of the consumer for the purposes of this section.*

(3) Section 52 presently reads:

*52 An owner of a gas utility who fails to comply with an order of the Board, after it becomes effective, is guilty of an offence and liable to a fine of \$100 a day for every day during which the default continues.*

(4) Section 55 presently reads:

*55 Any owner of a gas utility or any person who performs, commits or does any act or thing forbidden or prohibited by this Act or who neglects, fails or omits to do or perform any act or thing required by this Act to be done or performed by the owner or person is guilty of an offence.*

(5) Section 56 presently reads:

*56 A person who is guilty of an offence under this Act is, in addition to all other penalties, liable to a fine of not less than \$50 nor more than \$500, and, in default of payment, if an individual, to imprisonment for a term not exceeding 6 months.*

(6) Coming into force.

### **Rural Utilities Act**

**3(1)** Amends chapter R-21 of the Revised Statutes of Alberta 2000.

(2) Section 3 presently reads in part:

*3(1) Ten or more persons who desire to be associated together in a co-operative association with the principal object of supplying any one or more of the following:*

- (a) electricity;*
- (b) natural gas;*
- (c) water, primarily for domestic use;*
- (d) sewage disposal;*
- (e) water, primarily for domestic use, and sewage disposal,*

*to its members primarily in a rural area may apply to be incorporated under this Act.*

*(2) An application for incorporation is to be made by delivering to the Director*

*(a) a memorandum of association in the prescribed form signed by the 10 or more persons,*

(3) Section 10(5) presently reads:

*(5) An association shall allow a member to inspect the membership register at reasonable times during business hours at the head office of the association or place where the register is kept, subject to any rules as to the time and manner of inspection made by the association in general meetings.*

(4) Section 12 presently reads in part:

*(4) At meetings of an association*

*(a) a member has one vote regardless of the number of utility service contracts held by the member, and*

*(b) no member may vote by proxy.*

(5) Section 17 presently reads:

*17 The directors of an association supplying electricity or gas, or both, that owns works shall, in accordance with the regulations, maintain a reserve for the replacement, extension or increase in capacity of its works.*

(6) Section 25 presently reads:

*25(1) The directors of an association may be authorized, by a general meeting of the association called for that specific purpose, to wind up the affairs of the association by a resolution appointing the Director, or other person approved by the Director, as liquidator and empowering the liquidator to take all necessary action for the winding-up of the association.*

*(2) Where due notice of a general meeting for the purpose of authorizing the directors to wind up the affairs of the association has been given to the members, then, if insufficient members appear at the time and place of the general meeting to form a quorum, the directors may pass the resolution referred to in subsection (1) without the authorization of a general meeting.*

*(3) Sections 52 to 57 of the Co-operative Associations Act apply, with all necessary modifications, to the winding-up of the affairs of an association authorized pursuant to this section.*

*(4) Any distribution to the members on the winding-up of an association shall be on the basis of the number of utility service contracts held.*

(7) New sections regarding powers of liquidation in voluntary winding-up.

(8) Section 31(5) and (6) presently read:

*(5) A person other than an association or other corporation who is guilty of an offence is liable to a fine of not more than \$500.*

*(6) An association or other corporation that is guilty of an offence is liable to a fine of not more than \$1000.*