

*Bill 39*  
*Mr. Lindsay*

## **BILL 39**

2006

### **ENERGY STATUTES AMENDMENT ACT, 2006**

*(Assented to , 2006)*

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

#### **Coal Conservation Act**

**Amends RSA 2000 cC-17**

**1 The *Coal Conservation Act* is amended in section 29 by adding the following after subsection (3):**

(4) The authorization of the Lieutenant Governor in Council is not required in respect of an amendment to a permit granted under this section.

#### **Gas Resources Preservation Act**

**Amends RSA 2000 cG-4**

**2 The *Gas Resources Preservation Act* is amended by repealing section 22(3) and substituting the following:**

(3) A regulation or order made under this section must be published in The Alberta Gazette and comes into force on the day on which it is published or on another date specified in the regulation or order.

## **Gas Utilities Act**

**Amends RSA 2000 cG-5**

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

**(2) Section 28 is amended**

**(a) by adding “and in Part 2.2” after “this Part”;**

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

(a) “affiliated electricity retailer” has the meaning given to it in the regulations;

(a.1) “affiliated gas retailer” has the meaning given to it in the regulations;

(a.2) “affiliated retailer” means an affiliated electricity retailer or an affiliated gas retailer;

**(c) by adding the following after clause (i):**

(i.1) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;

**(d) by repealing clause (j) and substituting the following:**

(j) “retail gas services” means gas services that are provided by a retailer directly to customers and that are not provided

(i) under a default rate tariff, or

(ii) at or upstream of the inlet to the gas distribution system, to a customer acting on the customer’s own behalf;

**(3) Section 28.1 is amended**

**(a) in subsection (1)**

**(i) by striking out “Lieutenant Governor in Council” wherever it occurs and substituting “Minister”;**

**(ii) by adding the following after clause (n):**

(n.1) despite sections 46 and 47 of the *Electric Utilities Act*, respecting

- (i) the costs and expenses of the Market Surveillance Administrator in carrying out its mandate under this Part and Part 2.2,
- (ii) the costs and expenses of tribunals under Part 2.2, and
- (iii) the recovery of amounts paid under section 28.835(5),

including regulations respecting the payment of those costs, expenses and amounts by gas distributors and the recovery by gas distributors of those costs and amounts through their gas distribution tariffs;

**(iii) in clause (o) by adding “, Part 2.2” after “this Part”;**

**(iv) in clauses (p) and (q) by adding “and Part 2.2” after “this Part”;**

**(b) in subsection (8)(a) by adding “and Part 2.2, including costs related to advancing the purposes of the Parts and the regulations made under them” after “this Part”.**

**(4) The following is added after section 28.8:**

## **Part 2.2 Market Surveillance Administrator**

### **Definitions**

**28.81(1)** In this Part,

- (a) “market” means any type of market through or under which an offer, purchase, sale, trade or exchange of gas services takes place in relation to the provision of retail gas services, or services provided under a default rate tariff, by a market participant;
- (b) “market participant” means
  - (i) a retailer,

- (ii) a gas distributor,
- (iii) a default supply provider, or
- (iv) an affiliate of a retailer, gas distributor or default supply provider;
- (c) “Market Surveillance Administrator” means the Market Surveillance Administrator established by the *Electric Utilities Act*;
- (d) “record” has the meaning given to it by the *Electric Utilities Act*.

(2) For the purpose of subsection (1)(b)(iv), “affiliate” has the meaning given to it in the regulations.

### **Division 1 Mandate of the Market Surveillance Administrator**

#### **MSA mandate**

**28.811(1)** In addition to its mandate under the *Electric Utilities Act*, the Market Surveillance Administrator has the mandate to carry out surveillance and investigation in respect of the provision of retail gas services, or services provided under a default rate tariff, to customers by market participants, or any aspect of those activities.

(2) Without limiting the generality of subsection (1), the Market Surveillance Administrator’s mandate includes surveillance and investigation of any one or more of the following:

- (a) the conduct of market participants;
- (b) the structure and performance of the market;
- (c) arrangements, information sharing and decisions relating to market participants providing or wishing to provide retail gas services, or services provided under a default rate tariff, to customers, or any aspect of those activities;

- (d) the relationship between a gas distributor and its affiliated retailers or other retailers, or any aspect of the parties in the relationship;
- (e) the relationship between a gas distributor and a default supply provider or between a default supply provider and an affiliated retailer, or any aspect of the parties in the relationship;
- (f) any other conduct specified in the regulations made by the Minister under section 28.839.

(3) In carrying out surveillance and investigation of any conduct, the Market Surveillance Administrator must assess whether or not

- (a) the conduct of market participants is consistent with the fair, efficient and openly competitive operation of the market, and
- (b) the person carrying out the conduct has complied with or is complying with this Act, the regulations, market rules and any arrangements entered into under this Act or the regulations.

(4) As part of its mandate, the Market Surveillance Administrator may establish guidelines to further the fair, efficient and openly competitive operation of the market and must make those guidelines public.

**Duty to act responsibly**

**28.812** The Market Surveillance Administrator must carry out its mandate in a fair and responsible manner.

**Division 2  
Complaints to and  
Investigations by the Market  
Surveillance Administrator**

**Complaints or referrals to the MSA**

**28.813(1)** Any person may make a complaint or refer a matter to the Market Surveillance Administrator.

(2) The complaint or referral must be in writing and must include

- (a) the name and address of the person making it,
- (b) the particulars of the complaint or referral,
- (c) any information or facts supporting the complaint or referral, and
- (d) the signature of the individual or authorized representative of the person making the complaint or referral.

**Investigation and notification**

**28.814(1)** The Market Surveillance Administrator

- (a) may, on its own initiative, investigate any matter that is within its mandate,
- (b) unless section 28.815 applies, must investigate any complaint or referral made to it that the Market Surveillance Administrator is satisfied is within its mandate, and
- (c) may investigate any event that affects the operation of the market.

(2) The Market Surveillance Administrator must notify the person making a complaint or referral of the results of an investigation if an investigation is conducted as a result of the complaint or referral.

**Decision not to investigate or to discontinue investigation**

**28.815(1)** The Market Surveillance Administrator may decline to investigate a complaint or referral or discontinue an investigation if the Market Surveillance Administrator is satisfied the complaint or referral is frivolous, vexatious or trivial or otherwise does not warrant investigation.

(2) The Market Surveillance Administrator must give written notice of a decision under subsection (1) to the person who made the complaint or referral, giving reasons for it.

**Notice to another body having jurisdiction**

**28.816(1)** If after starting an investigation the Market Surveillance Administrator determines that a matter is within the jurisdiction of one or more of

- (a) the Board,
- (b) the person or persons responsible for administering the *Competition Act* (Canada), or
- (c) another body,

the Market Surveillance Administrator must notify the appropriate body of the matter.

**(2)** The Market Surveillance Administrator may

- (a) discontinue the investigation if the matter appears to be within the jurisdiction of another body and in that event must notify the person who made a complaint or referral of the discontinuance, giving reasons for the decision, or
- (b) continue the investigation
  - (i) for the purpose of carrying out its mandate, or
  - (ii) for the purpose of collaborating with any body notified under subsection (1).

**Right to enter premises, make inquiries and demand documents**

**28.817(1)** The Market Surveillance Administrator may, for the purpose of carrying out its mandate, do personally, or may authorize one or more of its officers, employees or any other person to do, any or all of the following:

- (a) enter and inspect the business premises of a market participant;
- (b) make reasonable inquiries of any person working at those premises and require information to be provided under oath;
- (c) request the production of records that are or may be relevant;
- (d) temporarily remove records that are or may be relevant;
- (e) make copies of records that are or may be relevant;

(f) request access to operate or request the operation of any computer system of the market participant to search any data or information contained in or available to the system and produce a document or information from the data.

(2) An activity carried out or action taken by or on behalf of the Market Surveillance Administrator under subsection (1) may only be carried out or taken during the normal business hours of the market participant.

(3) If the Market Surveillance Administrator removes records under subsection (1), the Market Surveillance Administrator may make copies of them and must return the original records within a reasonable time.

(4) A person working in the business premises of the market participant must co-operate reasonably with the Market Surveillance Administrator.

(5) A person acting under the authority of this section must carry identification in the form determined by the Market Surveillance Administrator and must present it on request.

#### **Search warrant**

**28.818(1)** In this section and in sections 28.819 and 28.82, “Court” means the Court of Queen’s Bench.

(2) If any person hinders, obstructs or impedes the Market Surveillance Administrator or refuses to co-operate with the Market Surveillance Administrator in the exercise of its mandate, the Market Surveillance Administrator may apply to the Court by notice of motion for an order under subsection (3).

(3) If the Court is satisfied that there are reasonable and probable grounds to believe that access to premises or the production or removal of records is necessary for the Market Surveillance Administrator to carry out its mandate, the Court may make any order it considers necessary to assist the Market Surveillance Administrator to obtain access or for the production or removal of records.



(4) An application for a Court order under this section may be made without notice to any other person unless the Court orders otherwise.

**Return of documents and information**

**28.819(1)** The Market Surveillance Administrator must return any records seized under a Court order within 60 days after the conclusion of the investigation that gave rise to the seizure, including any hearing or appeal.

(2) If the person from whom records are seized under a Court order requires the original record to be returned before the end of the time period set out in subsection (1), the person must send a written request to the Market Surveillance Administrator to that effect.

(3) Promptly on receiving a request under subsection (2), the Market Surveillance Administrator must

- (a) make copies of the requested record, and
- (b) return the originals to the person from whom they were seized.

(4) Copies of the original record are admissible in proceedings under this Act or the regulations if they are certified by the Market Surveillance Administrator as being true copies of the original record.

**Solicitor-client privilege**

**28.82(1)** If the Market Surveillance Administrator is about to examine or seize any record in respect of which the person having possession of the record, or that person's lawyer, claims that solicitor-client privilege exists, the Market Surveillance Administrator must, without examining or copying the record,

- (a) require the person from whom the record is to be seized to seal the record in an identifiable marked package,
- (b) seize the package containing the record, and
- (c) place the package in the custody of
  - (i) the clerk of the Court, or

(ii) a person that the parties agree on.

(2) Within 7 days of the seizure, the person claiming privilege must apply to the Court for an order determining whether the claim of privilege is proper.

(3) Notice of the application and any supporting material must be served on the person having custody of the package, on the Market Surveillance Administrator and any other party to the application at least 3 days before the date the application is to be heard.

(4) On being served with notice of the application, the person having custody of the package, if not the clerk of the Court, must promptly deliver the package to the custody of the clerk.

(5) In determining the application, the Court may open the package and inspect its contents, after which the Court must reseal the contents.

(6) The Court must hear the application in private, and if the Court determines

- (a) that the claim of privilege is proper, it must order that the records be returned immediately to the person from whom they were seized, or
- (b) that the claim of privilege is not proper, it must order that the records be delivered immediately to the Market Surveillance Administrator.

(7) If the application referred to in subsection (2) is not made within 7 days of the seizure, the package must be immediately released to the Market Surveillance Administrator.

#### **Completion of investigation**

**28.821(1)** If the Market Surveillance Administrator is satisfied that a market participant

- (a) has contravened this Act or the regulations, or
- (b) has engaged in conduct that is not in accordance with the fair, efficient and openly competitive operation of the market,

the Market Surveillance Administrator may give written notice to the chair of the Alberta Energy and Utilities Board and to the market participant named in the notice.

- (2) The notice must set out
- (a) a request that a tribunal be appointed and the reasons for the request;
  - (b) the name of the market participant concerned;
  - (c) reasonable particulars of the contravention or conduct that is to be presented to the tribunal;
  - (d) a statement of the order the Market Surveillance Administrator proposes to request from the tribunal;
  - (e) any other matter specified in the regulations made by the Minister under section 28.839.

### **Division 3 Tribunals and Enforcement**

#### **Tribunal membership**

**28.822(1)** The chair of the Alberta Energy and Utilities Board must establish a pool of individuals from whom persons may be selected to serve on a tribunal.

- (2) A person selected for the tribunal pool
- (a) must have an understanding of matters relating to the Alberta gas industry,
  - (b) must be independent of any person having a material interest in the Alberta gas industry,
  - (c) shall not be the Market Surveillance Administrator, or an officer or employee of the Market Surveillance Administrator, and
  - (d) shall not be the chair or any other member of the Alberta Energy and Utilities Board, or an officer or employee of the Alberta Energy and Utilities Board.

#### **Appointment of tribunal**

**28.823** On receiving a notice from the Market Surveillance Administrator requesting the appointment of a tribunal, the chair of the Alberta Energy and Utilities Board must

- (a) appoint a tribunal consisting of
  - (i) at least 2 individuals from the tribunal pool, and
  - (ii) one member of the Alberta Energy and Utilities Board, other than the chair,and
- (b) send the tribunal members a copy of the notice from the Market Surveillance Administrator requesting that a tribunal be appointed.

#### **Tribunal procedure**

**28.824(1)** The tribunal must hold a hearing into the matters set out in the Market Surveillance Administrator's request for a tribunal, which matters may be amended with the consent of the tribunal.

**(2)** The tribunal must give notice of the date, time and place of the hearing to

- (a) the Market Surveillance Administrator,
- (b) the market participant in respect of whom the hearing is to be held, and
- (c) any other person the tribunal considers to have an interest in the matter.

**(3)** The tribunal hearing must be conducted in accordance with the regulations made by the Minister under section 28.839.

**(4)** The tribunal

- (a) is not bound by the rules of evidence or any other law applicable to judicial proceedings and has power to determine the admissibility, relevance and weight of any evidence, and

- (b) may determine the manner in which evidence is to be admitted.

#### **Obtaining evidence**

**28.825(1)** A party to proceedings before a tribunal may serve a person with a notice requiring the person to attend and give evidence at the tribunal hearing.

(2) The notice has the same effect as a notice in a Court of Queen's Bench proceeding requiring a witness to attend at a hearing or to produce documents and must be served in the same way.

(3) A tribunal may administer oaths and must require witnesses to testify under oath.

(4) On the application of a party or of the tribunal, the Court of Queen's Bench may make orders and give directions with respect to the attendance of witnesses, production of records and taking of evidence.

#### **Protection for witnesses**

**28.826(1)** No person is excused from testifying or from producing any record when ordered to do so by the tribunal on the ground that the testimony or record might tend to incriminate the person or subject the person to penalty or forfeiture.

(2) A witness who testifies or produces a record at a hearing has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for or proceedings in respect of perjury or the giving of contradictory evidence.

#### **Rulings, interim and consent orders**

**28.827(1)** The tribunal may make any rulings on procedural or jurisdictional matters that it considers necessary.

(2) The tribunal may make an interim order only if it is of the opinion that the order is necessary to prevent immediate harm or further harm to the fair, efficient and openly competitive operation of the market.

(3) If the Market Surveillance Administrator and the market participant agree on a means to resolve all or part of a matter

before the tribunal, they may apply for, and the tribunal may issue, a consent order.

#### **Amendment or termination of proceedings**

**28.828(1)** If the tribunal finds that a matter that is the subject of its proceedings has been appropriately investigated, heard or dealt with in whole or in part by another body, the tribunal may amend or terminate all or part of the proceedings.

(2) The tribunal may amend or terminate proceedings at the request of a party to the proceedings.

#### **Decision of tribunal**

**28.829(1)** Within 60 days after the conclusion of a hearing, the tribunal must make a written decision with reasons.

(2) In making a decision, the tribunal may take into consideration any guidelines made by the Market Surveillance Administrator under section 28.811(4).

(3) The tribunal may make an order if it is of the opinion that a market participant

- (a) has contravened this Act or the regulations, or
- (b) has engaged in conduct that is not in accordance with the fair, efficient and openly competitive operation of the market.

(4) The tribunal may, by order, do any or all of the following:

- (a) impose an administrative penalty on the market participant of either or both of the following:
  - (i) a daily amount of not more than \$100 000 for each day or part of a day on which a contravention or conduct occurs or continues;
  - (ii) a one-time amount to address economic benefit when the tribunal is of the opinion that the market participant has derived an economic benefit directly or indirectly as a result of the contravention or conduct;

- (b) impose any terms and conditions the tribunal considers appropriate on the market participant relating to the provision of gas services;
- (c) prohibit the market participant from engaging in conduct specified in the order or direct the market participant to take action specified in the order;
- (d) direct the market participant to pay to or for the benefit of customers, in the manner that the tribunal considers practicable and equitable, the costs of the tribunal, the tribunal's legal fees and any other costs the tribunal considers appropriate on a full-indemnity basis, as assessed by the tribunal.

(5) When making an order the tribunal may take into consideration any failure or refusal of a market participant to co-operate with the Market Surveillance Administrator.

(6) A decision and order of a tribunal is a matter of public record and must be kept at the offices of the Market Surveillance Administrator.

(7) Copies of the decision and order must be made available to the public except to the extent that the hearing was held in private.

#### **Correction of errors and omissions**

**28.83(1)** A tribunal may, on its own initiative within 30 days after making a decision or at the request of a party to the proceedings made within 30 days after receiving the decision,

- (a) correct typographical errors, errors of calculation and similar errors in the decision, or
- (b) amend the decision so as to correct an injustice caused by an oversight on the part of the tribunal.

(2) The tribunal may,

- (a) on its own initiative within 30 days after making a decision or such longer time as approved by the parties, or

- (b) at the request of a party made within 30 days after receipt of the decision by that party,

make an additional decision to deal with a matter in dispute that was presented in the hearing but omitted from the earlier decision.

- (3) The tribunal need not hold a hearing or meeting before rejecting a request made under this section.

#### **Enforcement of tribunal orders and offence**

**28.831(1)** Subject to the right to appeal to the Court of Appeal under section 28.832, if a person fails to pay an administrative penalty or an order for payment of a tribunal's costs in accordance with the order imposing it, the Market Surveillance Administrator 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 Market Surveillance Administrator as if it were a judgment or order of the Court.

- (2) An administrative penalty imposed by the tribunal must be paid to or for the benefit of customers in the manner that the tribunal considers practicable and equitable.

- (3) If the order is against a market participant that is a corporation, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the conduct giving rise to the order is jointly and severally liable with the corporation for the administrative penalty, costs or other sanction imposed by the order.

- (4) Subject to the right to appeal to the Court of Appeal under section 28.832, the Market Surveillance Administrator may apply to the Court of Queen's Bench to enforce a tribunal order, other than an order to pay an administrative penalty or costs, on giving notice of the application to the person against whom enforcement is sought, in accordance with the *Alberta Rules of Court*.

- (5) An application under subsection (4) must be accompanied with the original tribunal order or a certified copy of it.



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

- (a) the order is the subject of an appeal under section 28.832 that has not been decided,
- (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.

(7) A person who fails to comply with an order of the tribunal is guilty of an offence and is liable to a fine of not more than \$100 000 a day for each day during which non-compliance continues.

(8) In addition, the Court may order the market participant to pay to or for the benefit of customers any administrative penalty imposed by the tribunal in the same manner that the tribunal ordered under section 28.829(4)(d).

#### **Appeals to Court of Appeal**

**28.832(1)** Subject to subsection (2), an appeal lies from a tribunal order to the Court of Appeal on a question of jurisdiction or on a question of law.

(2) Leave to appeal may be obtained from a judge of the Court of Appeal only on an application made

- (a) within 30 days from the day that the tribunal order sought to be appealed from was made, or
- (b) within a further period of time as granted by the judge if the judge is of the opinion that the circumstances warrant the granting of that further period of time.

(3) Notice of the appeal must be given to the parties affected by the appeal and to the tribunal chair.

(4) An order of the tribunal takes effect at the time prescribed by the tribunal order, and the operation of the order is not suspended by the commencement or conduct of any appeal to the Court of Appeal or of any further appeal.

(5) Despite subsection (4), when the tribunal thinks fit, the tribunal may, on application to it, suspend the operation of the order being appealed until

- (a) the decision of the Court hearing the appeal is rendered or the time for appeal to the Supreme Court of Canada has expired, or
- (b) the appeal has been abandoned.

(6) Within 30 days from the day that the leave to appeal is obtained, the tribunal chair must forward to the Registrar of the Court of Appeal the transcript and record of the hearing and the tribunal order.

(7) On receipt of the transcript, record and tribunal order from the tribunal chair, the Registrar of the Court of Appeal must set the appeal down for hearing at the next sittings of the Court, but the hearing shall not commence until at least 2 weeks has elapsed from the day that the appeal is so set down.

(8) After the appeal has been set down by the Registrar, the party appealing must give to the parties affected by the appeal, or to the solicitors by whom those persons were represented before the tribunal, and to the tribunal chair, notice in writing that the appeal has been so set down for hearing.

(9) The Court of Appeal must hear an appeal made under this section as speedily as practicable.

(10) On the hearing of the appeal,

- (a) no evidence may be admitted other than the evidence that was submitted to the tribunal on the making of the order that is being appealed from;
- (b) the Court of Appeal may draw all inferences that are not inconsistent with the facts expressly found by the tribunal and that are necessary for determining the question of jurisdiction or of law, as the case may be, and must certify its opinion to the tribunal;
- (c) the Court of Appeal must proceed to confirm, vacate or give directions to vary the order that is being appealed, and if the Court vacates or gives directions to vary the

order, the Court must refer the matter back to the tribunal for further consideration and redetermination.

(11) The tribunal is entitled to be represented, by counsel or otherwise, on the argument of an appeal.

(12) Neither the tribunal nor any member of the tribunal is in any case liable for costs by reason or in respect of an appeal or application.

(13) If an order or direction is vacated or a variation is directed, the matter must be reconsidered and redetermined by the tribunal, and the tribunal must vary or rescind its order in accordance with the judgment of the Court of Appeal or the Supreme Court of Canada.

#### **Immunity for tribunal members**

**28.833** The members of a tribunal are not liable for anything done or omitted to be done in good faith in the exercise or purported exercise of a power, duty, responsibility or function under this Act or the regulations.

### **Division 4 Liability**

#### **Definition**

**28.834** In this Division, “affiliate” has the meaning given to it in the *Business Corporations Act*.

#### **Liability protection of MSA**

**28.835(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 a market surveillance act;
- (b) “market surveillance act” means any act or omission carried out or purportedly carried out by a market surveillance person in exercising its powers and carrying out the mandate of the Market Surveillance Administrator under this Act and the regulations;

- (c) “market surveillance person” means
- (i) the Market Surveillance Administrator,
  - (ii) the individual appointed as the Market Surveillance Administrator,
  - (iii) each officer and employee of the Market Surveillance Administrator,
  - (iv) each agent or contractor of the Market Surveillance Administrator, and
  - (v) each affiliate of a person referred to in subclause (iv).

**(2)** No action lies against a market surveillance person, and a market surveillance person is not liable, for a market surveillance act.

**(3)** Subsection (2) does not apply

- (a) where a market surveillance act is carried out by a market surveillance person that is not an individual, if the act is not carried out in good faith or is a breach of contract, or
- (b) where a market surveillance act is carried out by a market surveillance person who is an individual, if the act is not carried out in good faith.

**(4)** Where, as a result of the operation of subsection (3), a market surveillance person is liable to another person for a market surveillance act, the market surveillance person is liable only for direct loss or damage suffered or incurred by that other person.

**(5)** In addition to any other indemnity the Market Surveillance Administrator may provide, where

- (a) a legal action has been commenced against a market surveillance person for a market surveillance act, and
- (b) the market surveillance person is, as a result of the operation of subsection (2) or otherwise, not liable,

the Market Surveillance Administrator must indemnify that market surveillance person for, and pay to that market surveillance person, all of that market surveillance 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 market surveillance person are recoverable by the Market Surveillance Administrator in accordance with subsection (6).

(6) The amounts paid to or on behalf of a market surveillance person under subsection (5) may be recovered by the Market Surveillance Administrator from the persons and in the manner set out in the regulations made under section 28.1(1)(n.1)(iii).

### **Regulations**

**28.836** The Lieutenant Governor in Council may make regulations

- (a) protecting any person named in the regulations from the legal liability specified in the regulations in the circumstances and in the manner described in the regulations;
- (b) prohibiting, limiting or restricting any cause of action for the purposes of clause (a);
- (c) requiring a person named or described in the regulations to indemnify any other person named or described in the regulations to the extent and in the circumstances described in the regulations;
- (d) providing immunity from a legal action described in the regulations for persons named or described in the regulations in respect of acts or omissions described in the regulations;
- (e) limiting or restricting the nature of damages or loss that a person named or described in the regulations may recover in action from any other person named or described in the regulations;
- (f) requiring the Board to take into consideration, when considering a tariff, or to impose as part of the terms and conditions of a tariff, any of the matters described or referred to in clauses (a) to (e).

**Division 5**  
**Regulatory Forbearance, Complaints**  
**to the Alberta Energy and Utilities**  
**Board and Regulations**

**Regulatory forbearance**

**28.837(1)** The Market Surveillance Administrator may decide to refrain, in whole or in part and conditionally or unconditionally, from the exercise of any power or the performance of any part of its mandate if the Market Surveillance Administrator 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 Market Surveillance Administrator must not refrain under subsection (1) in relation to a person, product, class of products, service or class of services if the Market Surveillance Administrator finds 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.

**Complaints about MSA**

**28.838(1)** Any person may make a written complaint to the chair of the Alberta Energy and Utilities Board about the conduct of the Market Surveillance Administrator.

(2) The chair of the Alberta Energy and Utilities Board

- (a) must refuse the complaint if the chair is satisfied that it deals with a matter the substance of which is before or has been dealt with by a tribunal, or
- (b) may refuse the complaint if the chair is satisfied that the complaint is frivolous, vexatious or trivial or otherwise does not warrant an investigation.

(3) A decision by the chair of the Alberta Energy and Utilities Board to refuse the complaint or to consider the complaint is final and shall not be questioned, reviewed or restrained by any proceeding in the nature of an application for judicial review or otherwise in any court.

(4) The person making the complaint and the Market Surveillance Administrator must, if the chair of the Alberta Energy and Utilities Board so requires, participate in a dispute resolution process selected by the chair of the Alberta Energy and Utilities Board, which may include arbitration under the *Arbitration Act*.

### **Regulations**

**28.839** The Minister may make regulations

- (a) adding to, clarifying, limiting or restricting any of the Market Surveillance Administrator's powers and mandate or regulating how they are to be exercised;
- (b) authorizing the Market Surveillance Administrator, with or without conditions, to appoint officials from another jurisdiction as officers of the Market Surveillance Administrator under this Act, and authorizing disclosure of information held by the Market Surveillance Administrator to authorities in other jurisdictions, with or without conditions;
- (c) respecting the process and procedure of a tribunal, including matters respecting
  - (i) the manner and means of challenging tribunal members and conferring authority on the Court of Queen's Bench with respect to those challenges,
  - (ii) the service and deemed service of notices,
  - (iii) the designation of a chair of the tribunal and the chair's authority, and the majority or number of tribunal members who make a decision and how tied decisions are to be resolved,
  - (iv) the circumstances under which a tribunal may hold its hearings in private,
  - (v) the recording of evidence,
  - (vi) the provision of legal counsel to the tribunal,
  - (vii) the period within which a tribunal must complete its hearings and make its decision, and

- (viii) empowering the tribunal to proceed in the absence of a party;
- (d) authorizing the chair of the Alberta Energy and Utilities Board to appoint a tribunal as a dispute resolution process under section 28.838(4) and respecting the jurisdiction and power of the tribunal to hear and make decisions related to complaints or disputes respecting the Market Surveillance Administrator;
- (e) respecting the contents of notices under section 28.821 and respecting the powers and duties of the chair of the Alberta Energy and Utilities Board relating to a tribunal, including the remuneration and expenses of tribunal members and by whom they are to be paid and other administrative, process and procedural matters that may be required;
- (f) respecting the records, reports or other information to be provided to the Market Surveillance Administrator by market participants, the use that the Market Surveillance Administrator can make of the records, reports or information, and limitations on that use;
- (g) respecting the disclosure to and confidentiality of records viewed or obtained by the Market Surveillance Administrator and the right of the public to have access to all or any of them.

**(5) The following is added after section 57:**

**Administrative penalties and offences**

**57.1** A person who is ordered to pay an administrative penalty under section 28.3(3)(d) or 28.829(4)(a) or a regulation made under section 28.1(1)(l) may not be charged under this Act with an offence in respect of the same matter except an offence for non-payment of the administrative penalty.

**(6) The *Electric Utilities Act* is amended**

- (a) in section 1(1) by repealing clause (a) and substituting the following:**



- (a) “affiliated electricity retailer” has the meaning given to it in the regulations made by the Minister under section 108;
- (a.1) “affiliated gas retailer” has the meaning given to it in the regulations made by the Minister under section 108;
- (a.2) “affiliated retailer” means an affiliated electricity retailer or an affiliated gas retailer;
- (b) in section 43(1)(a) by adding “or the Alberta gas industry” after “electric industry”;**
- (c) in section 44**
  - (i) in subsection (1) by striking out “regulations” and substituting “its regulations and the *Gas Utilities Act* and its regulations”;**
  - (ii) in subsection (2) by adding “of this Act or by the *Gas Utilities Act* or regulations made under section 28.839 of that Act” after “section 74 or 142”;**
  - (iii) in subsection (4)(b) by adding “or the gas industry” after “electric industry”;**
- (d) in section 108(o) by striking out “ “affiliated retailer” ” and substituting “ “affiliated electricity retailer”, “affiliated gas retailer” ”.**

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

### **Mines and Minerals Act**

**Amends RSA 2000 cM-17**

**4(1) The *Mines and Minerals Act* is amended by this section.**

**(2) Section 1 is amended**

- (a) in subsection (1)**
  - (i) in clause (a) by adding “or storage rights in respect of a subsurface reservoir” after “mineral”;**
  - (ii) by repealing clause (h);**

(iii) in clause (z) by striking out “fluid mineral”;

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

(2) If any substance is injected into a subsurface reservoir and a question arises between the Minister and the lessee under an agreement, or any person claiming under the lessee, as to the purpose for which the substance was injected, the Minister is to decide the question for the purposes of this Act.

**(c) by adding the following after subsection (4):**

(5) The reference to a product obtained from a mineral in sections 8(1)(a), 9(a)(i) and 36(2)(a) and (b) includes

- (a) any product obtained from a mineral by processing or reprocessing, and
- (b) any product obtained directly or indirectly, and in whole or in part, in exchange for a mineral or for a product referred to in clause (a).

**(3) Section 5(1) is amended by adding the following after clause (w):**

- (w.1) governing the development, use and retention of documents and information in electronic form by
  - (i) the Department, and
  - (ii) persons dealing with the Department  
in carrying out the business processes of the Department, including, without limitation, regulations
  - (iii) requiring that documents or types or classes of documents be in an approved electronic format and respecting the manner in which that format is determined or approved,
  - (iv) governing the methods and means of transmission of approved electronic documents or classes of approved electronic documents, including the establishment of rules, procedures and guidelines for their transmission,

- (v) governing the means by which the identity and authority of persons who create, submit or send approved electronic documents are verified, and
  - (vi) respecting electronic signatures on approved electronic documents and the legal effect of such signatures;
- (w.2) providing that a provision in a regulation made under any of clauses (w.1)(iii) to (vi) supersedes and applies in place of another enactment of Alberta in respect of the same subject-matter;
- (w.3) governing the legal effect and enforceability of approved electronic documents, certified copies of approved electronic documents and endorsements made on approved electronic documents, including
- (i) giving an approved electronic document the same effect as if it were in writing and signed, and
  - (ii) exempting an approved electronic document from any requirement at law that a document must be in writing or signed;
- (w.4) authorizing the Minister to refuse to accept documents that are not approved electronic documents or do not meet the requirements of or created under the regulations under clauses (w.1) to (w.3) in respect of the documents;
- (w.5) authorizing the Minister to establish rules respecting the acknowledgment of receipt of electronic documents;
- (w.6) authorizing the Minister to exempt a document or type or class of document from any requirement of or created under a regulation under clauses (w.1) to (w.5), subject to any terms and conditions the Minister considers appropriate;
- (w.7) generally governing the applicability of regulations under clauses (w.1) to (w.5) to the business processes administered by units or parts of the Department;

**(4) Section 8(1)(a) is repealed and the following is substituted:**

- (a) exchange any Crown mineral or a product obtained from a Crown mineral for another mineral or product obtained from a mineral;

**(5) Section 9(a)(i) is repealed and the following is substituted:**

- (i) the recovery of a mineral and the processing, sale or other disposition of the mineral or of a product obtained from the mineral;

**(6) Section 35(3) is amended by adding “or a contract or agreement under section 9” after “under the regulations”.**

**(7) Section 36 is amended**

**(a) in subsection (2)**

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

- (a) respecting the Crown’s royalty share of a mineral including, without limitation, the delivery of the royalty share in kind and the undertaking of any action in relation to the royalty share so delivered for any purpose leading directly or indirectly to and including disposal of the royalty share or of any product obtained from the royalty share;

**(ii) by repealing clause (b) and substituting the following:**

- (b) respecting the circumstances under which the lessee, the Alberta Petroleum Marketing Commission or any other person may be required to act, or requiring the lessee, the Alberta Petroleum Marketing Commission or any other person to act, as agent of the Crown in right of Alberta for any purpose leading directly or indirectly to and including disposal of the Crown’s royalty share or of any product obtained from the royalty share;

**(iii) in clause (c) by adding “, the Alberta Petroleum Marketing Commission” after “lessee”;**

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

- (c.1) respecting goods and services that may be required by the Minister or the Alberta Petroleum Marketing Commission to be provided to the Crown or the Alberta Petroleum Marketing Commission for any purpose in relation to the Crown's royalty share of a mineral, the persons required to provide those goods and services, and the consideration to be paid by the Crown or the Alberta Petroleum Marketing Commission for those goods and services;
- (c.2) respecting the determination of the consideration referred to in clause (c.1) by the Minister or the Alberta Petroleum Marketing Commission or the determination of charges instead of consideration by the Alberta Energy and Utilities Board;
- (c.3) respecting the rights, powers, liabilities and obligations of the Minister, the Alberta Petroleum Marketing Commission and others in relation to the provision of goods and services referred to in clause (c.1) and the payment of consideration, or charges instead of consideration, for those goods and services;

**(b) by adding the following after subsection (8):**

(9) No compensation is payable for goods or services provided pursuant to regulations under subsection (2)(c.1), other than consideration or charges instead of consideration that are paid or determined under the regulations.

**(8) Section 38 is amended**

**(a) in subsection (2) by adding the following after clause (e):**

- (e.1) any consideration or charges instead of consideration referred to in section 36(2)(c.1), (c.2) or (c.3) that are made subject to this section by the regulations;
- (e.2) any consideration or charges instead of consideration referred to in section 16(3) or (5) of the *Petroleum Marketing Act* that are made subject to this section by the regulations;

**(b) in subsection (4)(a)(ii) by adding “, (e.1), (e.2)” after “(e)”.**

**(9) Section 39(1) is amended by striking out “with respect to the lessee”.**

**(10) Section 39.1 is amended**

**(a) in subsections (3) and (4) by adding “or an overpayment of an amount” before “referred”;**

**(b) in subsection (5) by adding “or an overpayment of an amount” before “referred”.**

**(11) Section 57 is amended**

**(a) in subsection (3) by striking out “fluid mineral”;**

**(b) in subsection (5) by striking out “or” at the end of clause (b) and by repealing clause (c) and substituting the following:**

**(c) an agreement, where the storage rights are in respect of a subsurface cavern, or**

**(d) an agreement issued with the authorization of the Lieutenant Governor in Council, where the storage rights are in respect of a subsurface reservoir other than a subsurface cavern.**

**(12) Section 86 is amended**

**(a) in subsection (1) by striking out “the crude oil” and substituting “a mineral to which this section applies”;**

**(b) in subsection (2) by adding “and minerals” after “agreements”;**

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

**(3) The Lieutenant Governor in Council may make regulations specifying the agreements and minerals to which this section applies.**

**(13) Section 102(1)(b) and (c) are amended by striking out “fluid mineral”.**

**(14) Section 104(2) is amended by striking out “fluid mineral”.**

**(15) Subsections (8), (9), (11)(b) and (12) come into force on Proclamation.**

### **Natural Gas Price Administration Act Natural Gas Pricing Agreement Act**

#### **Repeals**

**5 The *Natural Gas Price Administration Act*, RSA 1980 cN-3, and the *Natural Gas Pricing Agreement Act*, RSA 1980 cN-4, are repealed.**

### **Oil and Gas Conservation Act**

#### **Amends RSA 2000 cO-6**

**6(1) The *Oil and Gas Conservation Act* is amended by this section.**

**(2) Section 1(1) is amended by adding the following after clause (aa):**

- (aa.1) “large facility” means a facility that is
  - (i) a central processing facility as defined in the *Oil Sands Conservation Regulation* (AR 76/88) with a Board approved design capacity of 5000 cubic metres or more per day,
  - (ii) an oil sands upgrader integrated into a central processing facility as defined in the *Oil Sands Conservation Regulation* (AR 76/88) with a Board approved design capacity of 5000 cubic metres or more per day,
  - (iii) a processing plant designated by the Board as a straddle plant for the purposes of section 35, or
  - (iv) a gas processing plant that has or has had sulphur recovery, with a sulphur inlet of one tonne or more per day;

**(3) The following is added after section 26:**

**Security deposit**

**26.1** Where, on the written request of a licensee of a large facility or one or more working interest participants who have a 50% or greater share in a large facility, the Board requires the licensee to provide a security deposit in respect of the large facility, each working interest participant in the large facility is responsible for paying its share of the security deposit to the licensee in proportion to its share in the facility.

**(4) The following is added after section 31:**

**Deemed licensee**

**31.1** Where

- (a) the licensee of a large facility (referred to in this section as the “transferor”) transfers the licence to another person (referred to in this section as the “transferee”) in accordance with section 24,
- (b) within 24 months of the transfer
  - (i) the transferee has become bankrupt or insolvent, or
  - (ii) in the case of a transferee that is a corporation,
    - (A) the transferee’s status is inactive, or the transferee is dissolved, under the *Business Corporations Act*, or
    - (B) the corporate registry status of the transferee is struck or rendered liable to be struck under the legislation governing the transferee,

and

- (c) the Board determines that the transfer has resulted in suspension, abandonment and reclamation costs being transferred without a corresponding value in assets being transferred,

the Board may deem the transferor to be the licensee of the large facility.



**(5) Section 43 is amended by adding the following after subsection (6):**

(6.1) The authorization of the Lieutenant Governor in Council is not required in respect of an amendment to a permit granted under this section.

**(6) Section 68(d)(ii) and (iv) are repealed.**

**(7) Section 70(1) is amended**

(a) in clause (c) by adding “except in respect of a large facility,” before “to pay”;

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

(c.1) in respect of a large facility, to pay for the licensee’s share of suspension costs, abandonment costs and related reclamation costs incurred by a working interest participant if the person who carried out the work has taken all reasonable steps necessary to collect that share from the licensee and has been unable to do so;

**(8) Section 71 is amended by renumbering it as section 71(1) and by adding the following after subsection (1):**

(2) Where the Board makes a payment from the orphan fund to a person in respect of a licensee’s share of suspension, abandonment or reclamation costs,

(a) the licensee is not released from any liability under this Act in respect of those costs, and

(b) if the person who receives the payment later recovers all or a part of the costs from the licensee, the person shall forthwith pay to the Board an amount equal to the amount recovered, less the reasonable costs of recovery, as determined by the Board.

**(9) Section 73 is amended by adding the following after subsection (2):**

(3) Orphan fund levies in respect of large facilities shall be held and accounted for separately in the orphan fund and used only to pay for a purpose referred to in section 70(1)(c.1).

(4) The Board may authorize money to be paid in respect of a purpose referred to in section 70(1)(c.1) only from the orphan fund levies collected in respect of large facilities.

**(10) Section 74 is amended by adding the following after subsection (1):**

(1.1) Where the Board has prescribed an orphan fund levy in respect of a large facility, each working interest participant in the large facility is responsible for paying its share of the levy to the licensee in proportion to its share in the facility.

**(11) Section 98 is amended by striking out “laterally” wherever it occurs.**

**(12) The following provisions are amended by striking out “, with the approval of the Lieutenant Governor in Council,”:**

section 48(1);  
section 50(1);  
section 51(1);  
section 53(1);  
section 80(3);  
section 82(3).

### **Oil Sands Conservation Act**

**Amends RSA 2000 cO-7**

**7 The *Oil Sands Conservation Act* is amended by repealing section 13(2) and substituting the following:**

(2) The prior authorization of the Lieutenant Governor in Council is not required in respect of an amendment referred to in subsection (1).

### **Petroleum Marketing Act**

**Amends RSA 2000 cP-10**

**8(1) The *Petroleum Marketing Act* is amended by this section.**

**(2) Section 1 is amended**

(a) by renumbering clause (a) as clause (a.1) and by adding the following before clause (a.1):

- (a) “agreement” has the same meaning as in the *Mines and Minerals Act*;

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

- (b.1) “goods” means goods specified in the regulations;
- (b.2) “hydrocarbon substance” means any substance that is composed primarily of one or more types of hydrocarbons, and includes any other substance specified as a hydrocarbon substance in the regulations;
- (b.3) “lessee” means the holder of an agreement according to the records of the Department;

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

- (d) “services” means services specified in the regulations;
- (e) “supplier” means a person specified in the regulations as a supplier.

**(3) The heading “Part 1 Alberta Petroleum Marketing Commission” is repealed.**

**(4) Section 2 is amended**

- (a) **in subsection (1) by striking out “Lieutenant Governor in Council” and substituting “Minister”;**
- (b) **in subsection (2)**
  - (i) **by striking out “Lieutenant Governor in Council” and substituting “Minister”;**
  - (ii) **in clause (c) by striking out “shall” and substituting “may”;**
- (c) **in subsection (3) by striking out “shall” and substituting “may” and by striking out “the bylaws” and substituting “a resolution”.**

**(5) Section 3(1) is repealed and the following is substituted:**

**Commission meetings**

**3(1)** Subject to subsection (2),

- (a) if there are 3 members of the Commission in office, 2 members constitute a quorum at a meeting of the Commission, and
- (b) if there are one or 2 members of the Commission in office, one member constitutes a quorum at a meeting of the Commission.

**(6) Section 4 is repealed and the following is substituted:**

**Offices**

**4** The Commission may establish offices in any locations that it considers appropriate for the purpose of conducting its business and affairs.

**(7) Section 5(2) is repealed.**

**(8) Section 6(2) is repealed and the following is substituted:**

(2) The Commission may engage the assistance of any persons it considers necessary for the purpose of conducting its business and affairs.

**(9) Section 11 is amended**

- (a) **in subsection (1) by striking out** “that the Lieutenant Governor in Council may require” **and substituting** “required by the regulations”;
- (b) **by repealing subsection (2).**

**(10) Section 12 is amended**

- (a) **in subsections (1) and (2) by striking out** “Provincial Treasurer” **wherever it occurs and substituting** “Minister”;
- (b) **in subsection (4) by striking out** “Provincial Treasurer” **and substituting** “Minister of Finance”;
- (c) **by repealing subsection (5) and substituting the following:**

(5) The Commission shall, when requested to do so by the Minister, pay to the Minister for deposit in the General Revenue Fund the net profit of the Commission for a fiscal year or a part of that net profit specified by the Minister.

**(11) Section 13(2) is repealed and the following is substituted:**

- (2) Without limiting subsection (1), the Commission may
- (a) carry on any business in relation to hydrocarbon substances and engage in any activities related to or incidental to that business,
  - (b) exercise and perform its functions under this or any other enactment, and
  - (c) act in any other circumstances as an agent of the Crown in right of Alberta.

**(12) The heading “Part 2 Marketing of the Crown’s Royalty Share of Crude Oil” is repealed.**

**(13) Section 14 is repealed and the following is substituted:**

**Definition**

**14(1)** In section 16, “crude oil” means the crude oil component of petroleum.

(2) This section is repealed on Proclamation.

**(14) Section 15 is repealed and the following is substituted:**

**Dealing with Crown’s royalty share**

**15** Subject to the regulations, the Commission shall

- (a) accept delivery of the Crown’s royalty share of a hydrocarbon substance required to be delivered to it pursuant to an agreement, a contract under section 9(a) of the *Mines and Minerals Act* or an enactment, and
- (b) deal with the Crown’s royalty share of the hydrocarbon substance in a manner that is, in the Commission’s opinion, in the public interest of Alberta.

**(15) Section 16 is repealed and the following is substituted:**

**Direction to provide goods and services**

**16(1)** The Commission may, in accordance with the regulations, direct a supplier to provide goods or services or both.

**(2)** The Commission may include in a direction under subsection (1) any terms and conditions that it considers appropriate.

**(3)** The Commission may pay consideration for the provision of the goods or services in accordance with the regulations.

**(4)** A supplier who receives a direction under subsection (1) shall comply with

- (a) the direction, and
- (b) any regulations relating to the provision of the goods or services.

**(5)** Where the Commission gives a direction under subsection (1) and the Commission is unable to reach an agreement with the supplier as to the just and reasonable consideration to be paid by the Commission for the goods or services, the Alberta Energy and Utilities Board may, on the application of the Commission or the supplier, fix charges instead of consideration in accordance with the regulations.

**(6)** No compensation is payable for goods or services provided under this section, other than consideration, or charges instead of consideration, that are paid or fixed under this section.

**(7)** A supplier who contravenes subsection (4) is guilty of an offence and is liable to a fine of not more than \$5000 for each day that the contravention continues.

**(8)** Where a supplier contravenes subsection (4), the Commission may, whether or not the supplier has been convicted of an offence in respect of the contravention, apply by originating notice to the Court of Queen's Bench for an order requiring the supplier to comply with the direction or the regulations, as the case may be.

**(9)** Where

- (a) a supplier is the lessee under an agreement, and
- (b) a direction is given to the supplier under subsection (1) calling for goods or services to be provided in respect of a hydrocarbon substance that is, in whole or in part, the Crown's royalty share of a mineral payable pursuant to the agreement,

a contravention of subsection (4) by the supplier is, for the purposes of section 45(1)(c)(i) of the *Mines and Minerals Act*, whether or not the supplier has been convicted of an offence in respect of the contravention, deemed to be a failure to comply with that Act in relation to the agreement.

**(16) Section 17 is repealed.**

**(17) Sections 18 and 19 are repealed and the following is substituted:**

**Discharge of lessee's liability**

**18(1)** Subject to this section and the regulations, the delivery to the Commission of the Crown's royalty share of a hydrocarbon substance recovered pursuant to an agreement operates to discharge the lessee with respect to the lessee's liability to pay that royalty to the Crown in right of Alberta.

**(2)** Where money is paid to the Commission pursuant to regulations under section 19(2)(a),

- (a) the money is deemed to be payable under an agreement and is for all other purposes deemed to be a money royalty payable on the hydrocarbon substance under an agreement, and
- (b) the payment of the money operates to discharge the lessee of an agreement with respect to the lessee's liability to pay royalty on the hydrocarbon substance to the Crown in right of Alberta to the extent that the money represents the value of the royalty on the hydrocarbon substance as determined under the regulations.

**Regulations**

**19(1)** The Lieutenant Governor in Council may make regulations

- (a) specifying substances or classes of substances as hydrocarbon substances for the purposes of this Act;
- (b) specifying goods or services or classes of goods or services for the purposes of section 16;
- (c) specifying persons or classes of persons as suppliers for the purposes of section 16;
- (d) respecting the giving of directions to suppliers and respecting the provision of goods or services by suppliers under section 16;
- (e) respecting the consideration to be paid by the Commission under section 16(3) and the fixing of charges instead of consideration by the Alberta Energy and Utilities Board;
- (f) respecting applications to the Alberta Energy and Utilities Board for the purposes of section 16(5);
- (g) respecting other information that must be shown in a general report referred to in section 11;
- (h) respecting information to be furnished to the Commission, the persons required to furnish that information, the form in which that information must be furnished and the time within which the information must be furnished;
- (i) respecting the imposition of pecuniary penalties payable to the Commission, the circumstances in which the penalties may be imposed, the persons liable to pay the penalties and the time by which the penalties must be paid;
- (j) respecting the respective rights, powers, liabilities and obligations of the Commission, lessees and others in the event that the quantity of a hydrocarbon substance delivered to the Commission in a month is less than or greater than the Crown's royalty share of the hydrocarbon substance actually payable in respect of that month;



- (k) respecting the rights, powers, liabilities and obligations of the Commission, suppliers and others in relation to the provision of goods or services and consideration for goods or services or charges instead of consideration;
- (l) providing for any matter in connection with or incidental to the administration of sections 14 to 18.

(2) Without limiting the powers of the Lieutenant Governor in Council under subsection (1)(j), regulations may be made under that subsection

- (a) respecting the powers of the Commission, in the event of a deficiency in deliveries of the quantity of the Crown's royalty share of a hydrocarbon substance under an agreement in a month, notwithstanding any other provision of the *Mines and Minerals Act* or of regulations under that Act,
  - (i) to accept the payment of money instead of delivery of the deficient quantity, or
  - (ii) to direct the payment to the Commission of an amount of money determined by it in accordance with the regulations as the value to the Crown of the deficient quantity;
- (b) respecting the powers of the Commission, in the event of deliveries of a hydrocarbon substance to the Commission in a month in excess of the quantity of the Crown's royalty share of the hydrocarbon substance for that month, to act as the agent of the owner of the excess quantity for the disposition and delivery of the excess quantity to a purchaser in accordance with the regulations.

(3) A failure to comply with the regulations under this section in respect of an agreement is, for the purposes of section 45(1)(c)(i) of the *Mines and Minerals Act*, deemed to be a failure to comply with that Act in relation to the agreement.

(4) Reports and other information supplied to the Commission pursuant to regulations under this section are, for the purposes

of section 38 of the *Mines and Minerals Act*, deemed to be supplied under that Act.

**(18) Subsection (15) comes into force on Proclamation.**

**Explanatory Notes**

**Coal Conservation Act**

**1** Amends chapter C-17 of the Revised Statutes of Alberta 2000. Section 29 presently reads:

*29(1) On receipt of an application for a permit together with any information prescribed or required by the Board, the Board may,*

- (a) if so authorized by the Lieutenant Governor in Council, grant a permit for the use of coal or products derived from coal proposed in the application on the terms and conditions set out in the permit, or*
- (b) refuse the application.*

*(2) The Board may hold a hearing with respect to an application under this Part.*

*(3) The Board shall not grant a permit under this Part unless in its opinion it is in the public interest to do so having regard to, among other considerations,*

- (a) the efficient use without waste of coal or products derived from coal, and*
- (b) the present and future availability of coal in Alberta.*

**Gas Resources Preservation Act**

**2** Amends chapter G-4 of the Revised Statutes of Alberta 2000. Section 22 presently reads:

*22(1) Notwithstanding anything in this Act, the Lieutenant Governor in Council, on the recommendation of the Board,*

*may, by general regulations or special order, exclude from the application of this Act, under any conditions the Lieutenant Governor in Council prescribes, any propane that is removed or that is intended to be removed from Alberta by pipeline or other means.*

*(2) A regulation or order made under this section*

- (a) does not extend the term of any permit authorizing the removal of propane from Alberta*
  - (i) that was issued before the effective date of, and*
  - (ii) that would have been in effect during the period of exclusion prescribed in the regulation or order, and*
- (b) may provide that when the period of exclusion is terminated, a permit that would have authorized the removal of propane from Alberta is, on the effective date of termination of the exclusion, effective to authorize the removal of propane from Alberta during any unexpired portion of its term that remains after the termination of the period of exclusion.*

*(3) A regulation or order made under this section*

- (a) shall be published in The Alberta Gazette and comes into force on the day of publication or another day fixed in the regulation or order, and*
- (b) shall be tabled in the Legislative Assembly within 15 days after the commencement of the next session after the making of the regulation or order.*

#### **Gas Utilities Act**

**3(1)** Amends chapter G-5 of the Revised Statutes of Alberta 2000.

**(2)** Section 28 presently reads in part:

*28 In this Part,*

- (a) *“affiliated retailer” has the meaning given to it in the regulations;*
- (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;*

(3) Section 28.1 presently reads in part:

*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.*
- (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.*

(4) New Part added in respect of Market Surveillance Administrator.

(5) Administrative offences and penalties.

(6) Consequential amendments.

(7) Coming into force of section.

#### **Mines and Minerals Act**

**4(1)** Amends chapter M-17 of the Revised Statutes of Alberta 2000.

(2) Section 1 presently reads in part:

*1(1) In this Act,*

(a) *“agreement” means an instrument issued pursuant to this Act or the former Act that grants rights in respect of a mineral, but does not include a notification, a transfer referred to in section 12, a unit agreement or a contract under section 9(a);*

(h) *“fluid mineral substance” means a fluid substance consisting of a mineral or of a product obtained from a mineral by processing or otherwise;*

(z) *“storage rights” means the right to inject fluid mineral substances into a subsurface reservoir for the purpose of storage;*

(2) *If any mineral or any product obtained from a mineral is injected into a subsurface reservoir and a question arises*

*between the Minister and the lessee under an agreement, or any person claiming under the lessee, as to the purpose for which the mineral or*

*mineral product was injected, then, for the purposes of this Act, the question is to be decided by the Minister.*

(3) Lieutenant Governor in Council may make regulations.

(4) Section 8(1)(a) presently reads:

*8(1) The Minister may*

*(a) exchange any Crown minerals for other minerals in Alberta;*

(5) Section 9(a) presently reads:

*9 Notwithstanding anything in this Act or any regulation or agreement, the Minister, on behalf of the Crown in right of Alberta and with the authorization of the Lieutenant Governor in Council, may*

*(a) enter into a contract with any person or the government of Canada or of a province or territory respecting*

*(i) the recovery of minerals, the processing of the minerals so recovered and the sale or other disposition of those minerals or the products obtained by processing those minerals or by reprocessing those products;*

*(ii) the development of mines or quarries for the recovery of minerals;*

*(iii) the storage of substances in subsurface reservoirs;*

*(iv) the royalty reserved to the Crown in right of Alberta on the minerals recovered;*

*(v) the provision for a consideration payable to the Crown in right of Alberta instead of royalty on the minerals recovered;*

- (vi) *any matter that the Minister considers to be necessarily incidental to, in relation to or in connection with any of the matters referred to in subclauses (i) to (v);*

(6) Section 35(3) presently reads:

*(3) If under the regulations the quantity of the royalty on a mineral is calculated on the basis of all or any of the products obtained by processing that mineral or by reprocessing the products obtained by processing that mineral, unless otherwise provided a reference to the mineral in any provision in this Act or the regulations respecting the royalty on the mineral shall be read as a reference to the product obtained by the processing or reprocessing, as the case may be.*

(7) Section 36 presently reads in part:

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

- (a) respecting the Crown's royalty share of a mineral;*
- (b) respecting the circumstances under which the lessee or any other person may be required to act or requiring the lessee or any other person to act as agent of the Crown in right of Alberta for any purpose leading to and including the disposal of the Crown's royalty share of a mineral;*
- (c) respecting the conditions of any agency relationship created pursuant to clause (b) and the powers, rights and duties of the Minister and of the lessee or any other person under the agency relationship;*
- (d) respecting the determination of the amount of money payable to the Crown in respect of the Crown's royalty share of a mineral when disposed of by a person required by the regulations to be an agent of the Crown for that purpose, notwithstanding the consideration actually received for the*



*Crown's royalty share when it is disposed of by the agent, and respecting the liability of that agent for the payment of that amount;*

- (e) respecting the determination of the value of a mineral or of the Crown's royalty share of a mineral for any purpose under the regulations;*

(8) Section 38 presently reads in part:

*(2) Where the Minister considers it appropriate to do so, the Minister may, in accordance with this section, calculate, recalculate or make additional calculations of any of the following:*

- (a) the Crown's royalty share of a mineral;*
- (b) any royalty proceeds;*
- (c) any credit or other deduction permitted by the regulations from the Crown's royalty share of a mineral or from royalty proceeds;*
- (d) any reduction or exemption from payment permitted by the regulations of the Crown's royalty share of a mineral or of royalty proceeds;*
- (e) any offset compensation;*
- (f) any interest or penalty arising or imposed under the regulations.*

*(4) A calculation, recalculation or additional calculation of any amount referred to in subsection (2) may be made,*

- (a) subject to subsection (6), within 4 years after the end of the calendar year in which*
  - (i) the mineral that is the subject of the calculation, recalculation or additional calculation was recovered in a case to which subsection (2)(a) applies,*
  - (ii) the amount referred to in subsection (2)(b), (e) or (f), as the case may be, became owing, or*

- (iii) *the amount of any credit, deduction, reduction or exemption referred to in subsection (2)(c) or (d) was first determined by the Minister,*

(9) Section 39(1) presently reads:

*39(1) A lessee, a lessee's agent and any other person authorized by the regulations to make an objection may, in accordance with the terms and conditions specified by the Minister and in the form and manner and within the time specified by the Minister, object to a*

*calculation, recalculation or additional calculation of any amount referred to in section 38(2) with respect to the lessee.*

(10) Section 39.1(3), (4) and (5) presently read:

*(3) No proceedings may be commenced by the Crown or any other person for a remedial order in respect of a claim for an amount referred to in subsection (2)(a) more than 3 years after the end of the calculation period for that amount.*

*(4) Subsection (3) does not apply in respect of a claim by the Crown for an amount referred to in subsection (2)(a) where the calculation period for the amount arises under section 38(4)(b).*

*(5) No proceedings may be commenced by the Crown or any other person for a remedial order in respect of a claim for an amount referred to in subsection (2)(b) more than 2 years after the date on which the direction to pay was issued under section 55 in respect of the amount.*

(11) Section 57 presently reads in part:

*(3) A person who has storage rights in respect of a subsurface cavern within any land has the right to recover any fluid mineral substance stored in that cavern, to the exclusion of any other person having the right to recover a mineral from the same land.*

*(5) Where the Crown in right of Alberta owns storage rights in respect of a subsurface reservoir, no person has, as against the Crown, any storage rights in respect of that reservoir except under*

- (a) *a unit agreement to which the Crown is a party,*
- (b) *a contract entered into under section 9(a), or*
- (c) *an agreement issued with the authorization of the Lieutenant Governor in Council,*

*that expressly conveys storage rights in respect of that reservoir.*

(12) Section 86 presently reads in part:

*86(1) Every agreement to which this section applies is subject to the condition that the Crown's royalty share of the crude oil recovered pursuant to the agreement must be delivered to the Alberta Petroleum Marketing Commission.*

*(2) This section applies only to those agreements to which it is made applicable by the regulations under subsection (3).*

*(3) The Lieutenant Governor in Council may make regulations declaring this section applicable either*

- (a) to all agreements granting petroleum and natural gas rights or petroleum rights, or*
- (b) to agreements granting petroleum and natural gas rights or petroleum rights the locations of which are situated in the part or parts of Alberta specified in the regulations.*

(13) Section 102(1) presently reads:

*102(1) The Minister may on behalf of the Crown enter into an agreement providing for the combining of interests in a mineral occurring in a subsurface reservoir underlying one or more tracts to facilitate the co-ordinated management of operations for any one or more of the following:*

- (a) the recovery of the mineral from the subsurface reservoir;*
- (b) the use of the subsurface reservoir for the purposes of storage of fluid mineral substances and the combining of interests in the storage rights in respect of that subsurface reservoir;*

(c) *the recovery of fluid mineral substances injected into or stored in the subsurface reservoir.*

(14) Section 104(2) presently reads:

*(2) Where a unit agreement provides for the use of the subsurface reservoir for the purpose of storage of fluid mineral substances, storage rights that are the property of the Crown and affected by the unit agreement are subject to the terms and conditions of the unit agreement so long as the Crown is a party to the unit agreement.*

(15) Coming into force.

**Natural Gas Price Administration Act  
Natural Gas Price Agreement Act**

**5** Repeals 2 Acts that are spent.

**Oil and Gas Conservation Act**

**6(1)** Amends chapter O-6 of the Revised Statutes of Alberta 2000.

(2) Definition of “large facility”.

(3) Working interest participants required to pay their share of any security deposit.

(4) Deemed licensee.

(5) Section 43 presently reads in part:

*43(1) In this section,*

- (a) *“energy resource” means gas, methane, ethane, propane, butanes, pentanes plus, condensate or crude oil or any primary derivative of them or any of them;*
- (b) *“gas product” means any constituent of gas extracted by processing including methane, ethane,*

*propane, butanes and pentanes plus but not including sulphur or any sulphur compound.*

*(2) No energy resource produced in Alberta shall be used in Alberta as a raw material or fuel in any industrial or manufacturing operation unless the Board, on application, has granted a permit authorizing that use for that purpose in accordance with this section.*

*(3) Notwithstanding subsection (2), a permit under this section is not required when*

- (a) the industrial or manufacturing operation is wholly in performance of a scheme or operation approved under section 39 or is a power plant as defined in the Hydro and Electric Energy Act, or*
- (b) the total quantity of energy in the energy resource used in any year as a raw material or fuel, or both, in the industrial or manufacturing operation does not exceed one petajoule, and the quantity of energy in the energy resource used in that year as a raw material in the industrial or manufacturing operation does not exceed 100 terajoules.*

*(4) On receipt of an application pursuant to subsection (2) together with any information prescribed or required by the Board, the Board may*

- (a) if so authorized by the Lieutenant Governor in Council, grant a permit for the use of the energy resource proposed in the application, or*
- (b) refuse the application.*

*(5) The Board may hold a hearing with respect to an application under this section.*

*(6) The Board shall not grant a permit under this section unless in its opinion it is in the public interest to do so having regard to, among other considerations,*

- (a) the efficient use without waste of the energy resource, and*
- (b) the present and future availability of hydrocarbons in Alberta.*

(6) Section 68(d) presently reads:

*68 In this Part,*

*(d) "facility" has the same meaning as it has in section 1(1)(w) except that it includes a pipeline as defined in the Pipeline Act and does not include the following:*

- (i) a processing plant or processing plant site as defined in the Oil Sands Conservation Regulation (AR 76/88);*
- (ii) a gas processing plant that has sulphur recovery and sulphur storage facilities;*
- (iii) an oilfield waste management facility;*
- (iv) a processing plant designated by the Board as a straddle plant for the purposes of section 35;*
- (v) a refinery as defined in the Pipeline Act;*
- (vi) an oil transmission pipeline and associated storage, pumping and measurement facilities;*
- (vii) a gas transmission pipeline and associated compression and measurement facilities;*
- (viii) any facility listed in the regulations as specifically exempted from this Part;*

(7) Section 70(1) presently reads:

*70(1) The purposes of the orphan fund are*

- (a) to pay for suspension costs, abandonment costs and related reclamation costs in respect of orphan wells, facilities, facility sites and well sites where the work is carried out*
  - (i) by the Board,*
  - (ii) by a person authorized by the Board, or*
  - (iii) by a Director or a person authorized by a Director in accordance with the*

*Environmental Protection and Enhancement  
Act;*

- (b) to pay for costs incurred in pursuing reimbursement for the costs referred to in clause (a) from the person responsible for paying them;*
- (c) to pay for a defaulting working interest participant's share of suspension costs, abandonment costs and related reclamation costs incurred by a working interest participant if the person who carried out the work has taken all reasonable steps necessary to collect that share and has been unable to do so;*
- (d) to pay for any other costs directly related to the operations of the Board in respect of the orphan fund.*

(8) Section 71 presently reads:

*71 Where the Board makes a payment from the orphan fund to a person in respect of a defaulting working interest participant's share of suspension, abandonment or reclamation costs,*

- (a) the defaulting working interest participant is not released from any liability under this Act in respect of those costs, and*
- (b) if the person who receives the payment later recovers all or part of the costs from the working interest participant, the*

*person shall forthwith pay to the Board an amount equal to the amount recovered, less the reasonable costs of recovery as determined by the Board.*

(9) Section 73 presently reads:

*73(1) The Board may, in respect of each fiscal year of the Board, by regulation prescribe*

- (a) classes of wells, facilities (other than pipelines) and unreclaimed sites and the rates of the orphan fund levy applicable to each class,*

- (b) *the date as of which the licensees of the wells, facilities and unreclaimed sites are to be determined, and*
- (c) *the date by which the levy prescribed under clause (a) and penalties payable under section 74(2) must be paid to the Board to the account of the orphan fund.*

(2) *In prescribing the orphan fund levy for a fiscal year, the Board shall provide for a total levy that will be sufficient to cover*

- (a) *the costs referred to in section 70(1) for the fiscal year, as estimated by the Board,*
- (b) *any deficiency arising out of the operations of the fund from the previous fiscal year, and*
- (c) *any surplus for emergency and non-budgeted expenditures that the Board considers is necessary.*

(10) Section 74 presently reads:

*74(1) An orphan fund levy prescribed with respect to a well, facility or unreclaimed site in a fiscal year is payable to the Board by the person who was the licensee of the well, facility or unreclaimed site on the date referred to in section 73(1)(b).*

*(2) Unless the Board directs otherwise, a licensee that fails to pay the orphan fund levy by the date referred to in section 73(1)(c) must pay to the Board a penalty in an amount equal to 20% of the levy.*

(11) Section 98 presently reads:

*98(1) When a well is drilled and the well produces oil or gas from a drilling spacing unit, and oil or gas in a drilling spacing unit that laterally adjoins the first mentioned drilling spacing unit is subject to an oil or gas lease that provides for the drilling of an offset well by reason of the kind or nature of the well that produces the oil or gas, then the well is deemed to be in that part of the drilling spacing unit where its presence would give rise to the obligation to*



*drill an offset well in the laterally adjoining drilling spacing unit.*

*(2) For the purpose of subsection (1), a road allowance is not to be considered*

*(a) in determining whether drilling spacing units are laterally adjoining, or*

*(b) in computing the distance from a producing well.*

(12) Removes requirement for Lieutenant Governor in Council approval for certain AEUB actions. The relevant sections read in part:

*48(1) On application the Board, with the approval of the Lieutenant Governor in Council, may from time to time declare each proprietor of a pipeline in any designated part of Alberta or the proprietor of any designated pipeline to be a common carrier as and from a date fixed by the order for that purpose, and on the making of the approved declaration the proprietor is a common carrier of oil, gas or synthetic crude oil or any 2 or all of them in accordance with the declaration.*

*50(1) On application the Board, with the approval of the Lieutenant Governor in Council, may declare any person who purchases, produces or otherwise acquires oil produced from any pool in Alberta to be a common purchaser of oil from the pool or pools designated by the Board and from which oil is being taken when that person is declared to be a common purchaser.*

*51(1) On application the Board, with the approval of the Lieutenant Governor in Council, may declare any person who purchases, produces or otherwise acquires gas produced from a pool from which gas is being taken to be a common purchaser of gas from the pool.*

*53(1) On application the Board, with the approval of the Lieutenant Governor in Council, may declare any person who is the owner or operator of a processing plant processing gas produced from a pool or pools in Alberta to be a common processor of gas from the pool or pools.*

*80(1) The owner of a tract within a drilling spacing unit may apply to the Board for an order that all tracts within the drilling spacing unit be operated as a unit to permit the drilling for or the production of oil or gas from the drilling spacing unit.*

*(2) The applicant shall state in the application*

- (a) the legal description of each tract within the drilling spacing unit and the ownership of that tract,*
- (b) the formation to which the applicant proposes to drill or from which the applicant proposes to produce,*
- (c) that an agreement to operate the tracts as a unit cannot be made on reasonable terms,*
- (d) particulars of the efforts made by the applicant to obtain agreement to the operation as a unit of all tracts within the drilling spacing unit,*
- (e) if there is a well on the drilling spacing unit, the name of the well and its producing formation or formations, and*
- (f) if there is not a well on the drilling spacing unit to the formation referred to in clause (b), that if an order is made by the Board the applicant is prepared to drill a well to a specified depth or that formation and, in the event that no production of oil or gas is obtained, the applicant will pay all costs incurred in the drilling and abandonment of the well.*

*(3) The Board may, with the approval of the Lieutenant Governor in Council, order that the tracts within the drilling spacing unit be operated as a unit with respect to the formation referred to in subsection (2)(b).*

*82(1) Where an order has been made under section 80 or 81, the Board*

- (a) shall consider an application made by owners of at least 25% of the working interests in the drilling*

*spacing unit affected by the order, calculated on an area basis, and*

- (b) may, if it is satisfied that it is appropriate to do so, consider an application made by any owner*

*to vary, amend or terminate the order.*

*(2) When the Board, at any time after making an order pursuant to section 80 or 81, is of the opinion that*

- (a) the pooling of all tracts subject to the order is not necessary to make up the drilling spacing unit of a well named or referred to in the order,*
- (b) a well required by the order to be drilled is not drilled within 6 months of the date of the order, or*
- (c) a well drilled pursuant to the order obtains production of a kind other than that for which the order was made,*

*the Board may hold a public hearing to consider in what manner the order should be varied, amended or terminated.*

*(3) On an application or hearing under subsection (1) or (2), the Board, with the approval of the Lieutenant Governor in Council, may terminate the order or may*

- (a) vary, amend or revise the order to supply any deficiency in it or to meet changing conditions, and*
- (b) alter or revoke any provision that it considers to be unfair or inequitable.*

### **Oil Sands Conservation Act**

**7** Amends chapter O-7 of the Revised Statutes of Alberta 2000. Section 13 presently reads in part:

*13(1) The Board may, on application or its own motion, amend an approval granted under section 10 or 11 or a permit granted under section 12.*

*(2) The prior authorization of the Lieutenant Governor in Council is required in respect of an amendment under this section unless*

- (a) an authorization was not required in respect of the application under section 10, 11 or 12, as the case may be, or*
- (b) the amendment is, in the opinion of the Board, of a minor nature that does not warrant the authorization.*

### **Petroleum Marketing Act**

**8(1)** Amends chapter P-10 of the Revised Statutes of Alberta 2000.

(2) Definitions.

(3) Repeals unnecessary heading.

(4) Section 2 presently reads in part:

*2(1) There is hereby created a corporation with the name "Alberta Petroleum Marketing Commission" that shall consist of not more than 3 members appointed by the Lieutenant Governor in Council.*

*(2) The Lieutenant Governor in Council*

- (a) shall designate one of the members of the Commission as chair and another as vice-chair;*
- (b) may prescribe the term of office of any member or the term of office of the chair or vice-chair;*
- (c) shall prescribe the rates of remuneration to be paid by the Commission to the members of the Commission.*

*(3) The members of the Commission shall be paid by the Commission their reasonable travelling and living expenses while absent from their ordinary place of residence and in the course of*

*their duties as members of the Commission, in accordance with the bylaws of the Commission.*

(5) Section 3(1) presently reads:

*3(1) Subject to subsection (2), a majority of the members of the Commission constitutes a quorum at a meeting of the Commission.*

(6) Section 4 presently reads:

*4(1) The head office of the Commission shall be at a place in Alberta designated by the Lieutenant Governor in Council.*

*(2) The Commission may establish any other offices and agencies it considers expedient.*

(7) Section 5(2) presently reads:

*(2) The Regulations Act applies to bylaws of the Commission.*

(8) Section 6(2) presently reads:

*(2) The Commission may obtain the services of any agents or advisors or persons providing technical or professional services of a kind required by the Commission in connection with its business and affairs.*

(9) Section 11 presently reads:

*11(1) The Commission shall annually, after the end of its fiscal year, prepare a general report summarizing its transactions and affairs during its last fiscal year and showing the revenues and expenditures during that period, an audited balance sheet and any other information that the Lieutenant Governor in Council may require.*

*(2) When the report is prepared, the Minister shall lay a copy of it before the Legislative Assembly if it is then sitting and if not, within 15 days after the commencement of the next sitting.*

(10) Section 12 presently reads in part:

*12(1) The Provincial Treasurer shall pay to the Commission the money voted by the Legislature for the purposes of the Commission in equal monthly instalments unless otherwise agreed between the Commission and the Provincial Treasurer.*

*(2) If the money voted by the Legislature for the purposes of the Commission is not sufficient for the Commission to meet its obligations as they become due, the Lieutenant Governor in Council may authorize the Provincial Treasurer to make payments to the Commission from the General Revenue Fund.*

*(4) The Lieutenant Governor in Council may authorize the Provincial Treasurer to guarantee on behalf of the Crown in right of Alberta the repayment of any money borrowed by the Commission pursuant to subsection (3) and interest on that money.*

*(5) After the end of each fiscal year of the Commission, the Commission shall, when requested to do so by the Provincial Treasurer and in accordance with the Provincial Treasurer's directions, pay to the Provincial Treasurer for deposit in the General Revenue Fund the net profit of the Commission for the preceding fiscal year or the part of that net profit specified by the Provincial Treasurer.*

(11) Section 13 presently reads:

*13(1) The Commission has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.*

*(2) The Commission, in the conduct of its business and affairs, may exercise its rights, powers and privileges in the course of*

- (a) carrying on the business of acquiring, selling and exchanging crude oil, condensate and synthetic crude oil and products of any of them and engaging in activities related or incidental to that business,*
- (b) exercising and performing its functions under this or any other enactment, and*
- (c) acting in any other circumstances as an agent of the Crown in right of Alberta.*

(12) Repeals unnecessary heading.

(13) Section 14 presently reads:

*14 In this Part,*

- (a) *“agreement” means a lease, licence, permit or reservation of petroleum and natural gas rights or petroleum rights issued pursuant to the Mines and Minerals Act or its predecessors and to which section 86 of the Mines and Minerals Act applies;*
- (b) *“crude oil” means the crude oil component of petroleum;*
- (c) *“lessee” means the holder of an agreement according to the records of the Department.*

(14) Section 15 presently reads:

*15 Subject to the regulations, the Commission*

- (a) *shall accept delivery within Alberta of the Crown’s royalty share of the crude oil recovered pursuant to an agreement and required to be delivered to it by section 86 of the Mines and Minerals Act, and*
- (b) *shall sell the Crown’s royalty share of crude oil at a price that is in the public interest of Alberta.*

(15) Section 16 presently reads:

*16(1) When the Commission wishes to arrange for the storage of crude oil delivered to it pursuant to section 15, the Commission may*

- (a) *direct the operator of a pipeline to transmit the crude oil by the operator’s pipeline to a storage facility in Alberta designated by the Commission or to a point in Alberta designated by the Commission that is en route to a storage facility, or*
- (b) *subject to subsection (2), direct the owner of any storage facility in Alberta to accept the crude oil for storage and to store it in that storage facility,*

*subject to the payment of compensation for it by the Commission in accordance with subsection (3) or (4).*

*(2) The Commission shall not make a direction under subsection (1)(b) in respect of a storage facility consisting of an underground formation unless an approval has been previously obtained from the Energy Resources Conservation Board pursuant to section 39(1)(d) of the Oil and Gas Conservation Act.*

*(3) When a direction is made by the Commission under subsection (1)(a) and the Commission is unable to reach an agreement with the owner or operator of the pipeline as to the just and reasonable charges to be paid by the Commission for the transmission of the crude oil by that pipeline, section 110 of the Public Utilities Board Act applies.*

*(4) When a direction is made by the Commission under subsection (1)(b) and the Commission is unable to reach an agreement with the owner or operator of the storage facility as to the just and reasonable charges to be paid by the Commission for the storage of the crude oil, the Public Utilities Board may, on the application of the Commission or the other party to the dispute, fix those storage charges.*

*(5) A person who does not comply with a direction given to the person by the Commission under subsection (1) is guilty of an offence and liable to a fine not exceeding \$5000 for each day that the failure of compliance continues.*

*(6) If a person does not comply with a direction given to the person by the Commission under subsection (1), then, whether or not the person has been convicted of an offence under subsection (5), the Commission may by originating notice apply to the Court of Queen's Bench for an order requiring that person to comply with the direction.*

(16) Section 17 presently reads:

*17 The Commission shall pay the proceeds of sales of crude oil by it under this Part to the Provincial Treasurer for deposit in the General Revenue Fund in accordance with the directions of the Provincial Treasurer.*

(17) Sections 18 and 19 presently read:



*18(1) Subject to this section, the delivery to the Commission of the Crown's royalty share of crude oil recovered pursuant to an agreement operates to discharge the lessee with respect to the lessee's liability to pay that royalty to the Crown in right of Alberta.*

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

- (a) respecting information to be furnished to the Commission, the persons required to furnish that information, the form in which that information must be furnished and the time within which the information must be furnished;*
- (b) respecting the imposition of pecuniary penalties payable to the Commission, the circumstances in which the penalties may be imposed, the persons liable to pay the penalties and the time by which the penalties must be paid;*
- (c) respecting the respective rights, powers, liabilities and obligations of the Commission, lessees and others in the event that the quantity of crude oil delivered to the Commission under this Part in a month is less than or greater than the Crown's royalty share of the crude oil actually payable in respect of that month.*

*(3) Without limiting the powers of the Lieutenant Governor in Council under subsection (2)(c), regulations may be made under that clause*

- (a) respecting the powers of the Commission, in the event of a deficiency in deliveries of the quantity of the Crown's royalty share of crude oil under an agreement in a month, notwithstanding section 86 of the Mines and Minerals Act,*
  - (i) to accept the payment of money instead of delivery of the deficient quantity, or*
  - (ii) to direct the payment to the Commission of an amount of money determined by it in accordance with the regulations as the value to the Crown of the deficient quantity;*

(b) *respecting the powers of the Commission, in the event of deliveries of crude oil to the Commission in a month in excess of the quantity of the Crown's royalty share of crude oil for that month, to act as the agent of the owner of the excess quantity for the sale and delivery of the excess quantity to a purchaser in accordance with the regulations.*

(4) *Where money is paid to the Commission pursuant to regulations under subsection (3)(a),*

(a) *the money is deemed to be payable under an agreement and to be proceeds from the sale of crude oil for the purposes of section 17 and is for all other purposes deemed to be a money royalty payable on crude oil under an agreement, and*

(b) *the payment of the money operates to discharge the lessee of an agreement with respect to the lessee's liability to pay royalty on crude oil to the Crown in right of Alberta to the extent that the money represents the value of the royalty on crude oil as determined under the regulations.*

(5) *A failure to comply with the regulations under this section in respect of an agreement shall, for the purposes of section 45(1)(c)(i) of the Mines and Minerals Act, be deemed to be a failure to comply with that Act in relation to the agreement.*

(6) *Reports and other information supplied to the Commission pursuant to regulations under this section are, for the purposes of section 38 of the Mines and Minerals Act, deemed to be supplied under that Act.*

*19 The Lieutenant Governor in Council may make regulations providing for any matter in connection with or incidental to the administration of this Part.*

(18) *Coming into force.*