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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 46

ALBERTA UTILITIES COMMISSION ACT

THE MINISTER OF ENERGY

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 46

2007

ALBERTA UTILITIES COMMISSION ACT

(Assented to , 2007)

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

Interpretation

1 In this Act,

- (a) “Chair” means the Chair of the Commission;
- (b) “Commission” means the Alberta Utilities Commission established under section 2;
- (c) “Commission rules” means rules of the Commission made under this Act or any other enactment;
- (d) “ISO rules” means rules made by the Independent System Operator under the *Electric Utilities Act*;
- (e) “member” means a member of the Commission;
- (f) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act.

Part 1 Alberta Utilities Commission

Establishment of the Commission

2(1) The Alberta Utilities Commission is established as a corporation consisting of the members appointed under section 3(1).

(2) The fiscal year of the Commission is April 1 to the following March 31.

Membership of the Commission

3(1) The Commission shall consist of not more than 9 members appointed by the Lieutenant Governor in Council, one of whom shall be designated as Chair by the Lieutenant Governor in Council.

(2) A person appointed to the Commission holds office for a term of not more than 5 years as set out in the appointment.

(3) The Lieutenant Governor in Council shall determine the remuneration of the members of the Commission, which is to be paid by the Commission.

(4) The Lieutenant Governor in Council may delegate to the Minister all or any of the Lieutenant Governor in Council's powers to determine the remuneration of all or any of the members.

(5) A member of the Commission is eligible for reappointment for one or more terms not exceeding 5 years each.

(6) A member of the Commission continues to hold office after the expiry of the member's term of office until the member is reappointed, a successor is appointed or a period of 3 months has elapsed, whichever occurs first.

Acting Commission members

4(1) The Lieutenant Governor in Council may nominate persons from among whom acting members of the Commission may be selected.

(2) When in the Chair's opinion it is necessary or desirable for the proper and expeditious performance of the Commission's duties,

the Chair may name one or more persons nominated under subsection (1) as acting members for any period of time or during any circumstances or for the purpose of any matter before the Commission.

(3) An acting member has, during the period, under the circumstances or for the purpose for which the acting member is named as an acting member, all the powers, duties, rights, protections and obligations of a member appointed under section 3 and shall receive the remuneration determined by the Chair.

(4) The Commission may be enlarged to more than the number of members referred to in section 3(1) by the naming of one or more acting members in accordance with this section.

Chair and Vice-chair

5(1) The Chair has the power to act for, and in the name of, the Commission in the execution, performance and carrying out of any act, matter or thing that is within the power of the Commission, subject only to any express directions or decisions given or made by a resolution of the Commission.

(2) The Chair may appoint not more than 2 members as Vice-chairs of the Commission.

(3) At any time during which the office of Chair is vacant or the Chair is absent or unable to act as Chair, a Vice-chair shall perform all the duties and functions and may exercise all the powers of the Chair.

(4) If the Chair and Vice-chairs are absent or unable to act, unless the Chair has provided otherwise, the remaining members may appoint one of their number to act.

Duty of care

6(1) Every member, in exercising powers and in discharging functions and duties,

- (a) shall act honestly, in good faith and in the public interest,
- (b) shall avoid conflicts of interest, and

(c) shall exercise the care, diligence and skill that a reasonable and prudent person would exercise under comparable circumstances.

(2) The Commission shall establish and maintain policies and procedures addressing the identification, disclosure and resolution of matters involving conflict of interest of members of the Commission and senior officers and employees of the Commission.

Chief Executive

7(1) The Commission shall appoint a Chief Executive and shall determine the Chief Executive's powers, duties and functions.

(2) The Commission shall determine the remuneration to be paid to the Chief Executive.

Powers of the Commission

8(1) The Commission has all the powers, rights, protections and privileges that are given to it or provided for under this Act and under any other enactment and by law.

(2) The Commission, in the exercise of its powers and the performance of its duties and functions under this Act or any other enactment, may act on its own initiative or motion and do all things that are necessary for or incidental to the exercise of its powers and the performance of its duties and functions.

(3) In addition to the powers, duties and functions conferred or imposed on the Commission by this Act or any other enactment, the Commission may carry out any other powers, duties and functions determined by the Lieutenant Governor in Council.

(4) The Lieutenant Governor in Council may, by order, require the Commission to carry out any function or duty specified in the order, including inquiring into, hearing and determining any matter or thing in respect of any matter within the jurisdiction of the Commission under this Act or any other enactment, and the Commission shall without unnecessary delay comply with the order.

(5) Without restricting subsections (1) to (4), the Commission may do all or any of the following:

(a) hear and determine all questions of law or fact;

- (b) make an order granting the relief applied for;
- (c) make interim orders;
- (d) where it appears to the Commission to be just and proper, grant partial, further or other relief in addition to, or in substitution for, that applied for as fully and in all respects as if the application or matter had been for that partial, further or other relief.

(6) An order of the Commission takes effect at the time provided for by the order or, if no time is provided for, on the date of the order.

(7) The Commission may delegate any of the powers, duties and functions conferred or imposed on it under this or any other enactment to any member or any other person unless the regulations under section 90 prohibit the delegation.

Decisions and orders

9(1) Unless expressly provided by this Act or any other enactment to the contrary, and subject to this section, any order or decision that the Commission is authorized to make may be made without giving notice and without holding a hearing.

(2) If it appears to the Commission that its decision or order on an application may directly and adversely affect the rights of a person, the Commission shall

- (a) give notice of the application in accordance with the Commission rules,
- (b) give the person a reasonable opportunity of learning the facts bearing on the application as presented to the Commission by the applicant and other parties to the application, and
- (c) hold a hearing.

(3) Notwithstanding subsection (2), the Commission is not required to hold a hearing where

- (a) no person requests a hearing in response to the notice of application,

- (b) it appears to the Commission that no person will be directly and adversely affected in a material way by a decision of the Commission on the application, or
- (c) on an application for the construction or operation of a hydro development, power plant or transmission line under the *Hydro and Electric Energy Act* or a gas transmission pipeline under the *Gas Utilities Act*, the Commission is satisfied that the applicant has met the relevant Commission rules respecting each owner of land that may be directly and adversely affected by the Commission's decision on the application.

(4) Where a person is entitled to make representations to the Commission, the Commission is not required by subsection (2) to afford an opportunity to a person to make oral representations, or to be represented by counsel, if the Commission affords the person an adequate opportunity to make representations in writing.

Reviews

10(1) The Commission may in accordance with the rules made under subsection (2) review any decision or order made by it under this Act or any other enactment and after the review may confirm, rescind or vary the decision or order.

(2) The Commission may make rules respecting the review of any decision or order made by it, including

- (a) the criteria that the Commission may use to determine whether to review a decision or order,
- (b) the eligibility of a person to request a review,
- (c) the information that a person requesting a review must provide to the Commission, and
- (d) the time period within which a person may request a review by the Commission.

(3) On receiving an application under this section, the Commission may suspend the decision or order on the terms and conditions the Commission prescribes.

Commission has powers of Queen’s Bench judge

11 In addition to any other powers conferred or imposed by this Act or any other enactment, the Commission has, in regard to the attendance and examination of witnesses, the production and inspection of records or other documents, the enforcement of its orders, the payment of costs and all other matters necessary or proper for the due exercise of its jurisdiction or otherwise for carrying any of its powers into effect, all the powers, rights, privileges and immunities that are vested in a judge of the Court of Queen’s Bench.

Power of Commission re contempt

12 A person who commits or does an act, matter or thing that would, if done in or in respect of the Court of Queen’s Bench, constitute a contempt of the Court is in contempt of the Commission, and on the application of the Commission a judge of the Court may commit that person for contempt of the Commission, and the judge has the same power of committal in respect of contempt of the Commission as the judge has in respect of contempts of the Court.

**Part 2
Hearings and
Other Proceedings**

Divisions of the Commission

13(1) The Chair may designate any one or more members to sit as a division of the Commission and may direct that division to conduct any hearing or other proceeding that the Commission may conduct under this Act or any other enactment.

(2) A majority of the members designated to sit as a division of the Commission constitutes a quorum at any hearing or other proceeding conducted by that division.

(3) Any decision made or other action taken at a hearing or other proceeding conducted by a division of the Commission is the decision or action of the Commission.

(4) A division of the Commission may exercise the powers and perform the duties and functions of the Commission under this or any other enactment with respect to the hearing or other proceeding it is directed to conduct, and for that purpose any reference to the

Commission in this or any other enactment is deemed to be also a reference to a division of the Commission.

(5) The Chair may designate a member of a division of the Commission to preside at any sitting of the division.

(6) Two or more divisions of the Commission may sit at the same time.

(7) If in the opinion of the Chair a member of a Division is not properly carrying out his or her duties, the Chair may remove the member from sitting in a division.

Chair may not sit

14 The Chair may not sit on a hearing or other proceeding of the Commission initiated at the request of the Market Surveillance Administrator under Part 6.

Absence of Commission members

15 When a hearing or other proceeding is conducted by the Commission and a member or members are removed from sitting under section 13(7) or for any reason do not attend on any day or part of a day, the other member or members who are sitting at the hearing or other proceeding may, if they constitute a quorum, continue the hearing or other proceeding as fully and effectively as though the absent member or members were present.

Co-operative proceedings

16(1) If the Commission is of the opinion that it would be expedient or in the public interest to do so, the Commission may conduct or participate in a hearing or other proceeding in respect of or relating to matters under the Commission's jurisdiction jointly or in conjunction

- (a) with another board, commission or other body constituted in Alberta, or
- (b) subject to the approval of the Lieutenant Governor in Council and in accordance with an agreement under subsection (2), with another board, commission or other body constituted by the Government of Canada or an agency of it or by a government of a jurisdiction outside Alberta or an agency of such a government.

(2) The Commission may enter into any agreements it considers desirable with the Government of Canada or an agency of it or with any government of a jurisdiction outside Alberta or an agency of such a government in respect of holding hearings or other proceedings jointly or in conjunction with that government or agency.

(3) A hearing or other proceeding referred to in subsection (1) may be held outside Alberta.

Public interest

17 Where the Commission conducts a hearing or other proceeding on an application to construct or operate a hydro development, power plant or transmission line under the *Hydro and Electric Energy Act* or a gas transmission pipeline under the *Gas Utilities Act*, it shall, in addition to any other matters it may or must consider in conducting the hearing or other proceeding, give consideration to whether construction or operation of the proposed hydro development, power plant, transmission line or gas transmission pipeline is in the public interest, having regard to the social and economic effects of the development, plant, line or pipeline and the effects of the development, plant, line or pipeline on the environment.

Protection re evidence

18(1) No person shall be excused from testifying or from producing, when ordered to do so by the Commission, any record or other document in a hearing or other proceeding of the Commission on the grounds that the testimony, record or other document might tend to incriminate the person or subject the person to penalty or forfeiture.

(2) A witness who testifies or produces records or other documents at a hearing or other proceeding under subsection (1) has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings under any other Act or regulation, except a prosecution for or proceedings in respect of perjury or the giving of contradictory evidence.

Witnesses at hearing

19(1) The Commission may, when in its opinion the attendance of any person before the Commission is desirable, serve on the witness a notice requiring the witness's attendance before the

Commission, and the notice must be signed by a member of the Commission.

(2) If a person fails or refuses to comply with a notice to attend issued by the Commission, or to produce a record or other document when ordered to do so by the Commission, the Court of Queen's Bench, on the application of the Commission, may issue a bench warrant requiring the attendance of the person before the Commission or the production by the person of the record or other document.

(3) If a witness refuses to give evidence or to answer any question before the Commission, or to produce a record or other document when ordered to do so by the Commission, the Court of Queen's Bench, on the application of the Commission, may commit the witness for contempt.

Rules of evidence

20 The Commission is not bound in the conduct of its hearings by the rules of law concerning evidence that are applicable to judicial proceedings.

Costs of proceedings

21(1) Subject to subsection (2), the Commission may order by whom and to whom its costs and any other costs of or incidental to any hearing or other proceeding of the Commission are to be paid.

(2) The Commission shall not order the payment of costs to any intervener, except as provided for in section 22 or 39.

Local intervener costs

22(1) For purposes of this section, "local intervener" means a person or group or association of persons who, in the opinion of the Commission,

(a) has an interest in, and

(b) is in actual occupation of or is entitled to occupy

land that is or may be directly and adversely affected by a decision or order of the Commission in or as a result of a hearing or other proceeding of the Commission on an application to construct or operate a hydro development, power plant or transmission line

under the *Hydro and Electric Energy Act* or a gas transmission pipeline under the *Gas Utilities Act*, but unless otherwise authorized by the Commission does not include a person or group or association of persons whose business interest may include a hydro development, power plant or transmission line or a gas transmission pipeline.

(2) The Commission may make rules respecting the payment of costs to a local intervener for participation in any hearing or other proceeding of the Commission.

Part 3 Commission Orders

General power

23(1) The Commission may order any person

- (a) to do any act, matter or thing, forthwith or within or at a specified time and in any manner directed by the Commission, that the person is or may be required to do under this Act or any other enactment or pursuant to any decision, order or rule of the Commission, and
- (b) to cease doing any act, matter or thing, forthwith or within or at a specified time, that is in contravention of this Act or any other enactment or any decision, order or rule of the Commission.

(2) If a rule, order or decision of the Commission requires that an act, matter or thing be done within a specified time and in the opinion of the Commission the circumstances so require, the Commission may, on giving any notice that it considers reasonable, or in its discretion without notice, extend the time so specified.

Orders without notice

24(1) Where notice to interested parties to a hearing or other proceeding is required, the Commission may, if it is of the opinion that the matter is urgent, or for other reasons appearing to the Commission to be sufficient, hear the application or make the decision or order as if due notice had been given to all parties, and the decision or order is as valid and has effect in all respects as if made on due notice.

(2) A person entitled to notice under subsection (1) may, at any time within 10 days after becoming aware of any decision or order, or within any further time the Commission may allow, apply to the Commission to vary or rescind the decision or order, and the Commission shall, on that application and on any notice to the other interested parties that in its discretion it thinks desirable, hear the application, and either confirm, vary or rescind the decision or order or dismiss the application as it considers just.

Enforcement orders

25 An order of the Commission may be enforced by a written direction addressed to a civil enforcement agency, endorsed on or annexed to a certified copy of the order and signed by the Commission, and in the case of an order for payment of any money, costs, expenses or penalty, the civil enforcement agency receiving the direction shall levy the amount with its costs and expenses in a similar manner and with the same powers as if the order were a writ of enforcement issued out of the Court of Queen's Bench against the goods of the party to pay.

Registration of order

26(1) A certified copy of an order of the Commission for payment of any money, costs, expenses or penalty may be registered in any land titles office.

(2) An order registered under subsection (1) constitutes a lien and charge on any land or any interest in land that is held by the person ordered to pay an amount referred to in subsection (1) to the same extent and in the same manner as the land would be bound by the registration of a writ of enforcement issued after judgment in the Court of Queen's Bench.

Assistance by peace officers, etc.

27 Sheriffs, deputy sheriffs, civil enforcement bailiffs and peace officers shall, whenever required to do so, give assistance to and comply with the directions of the Commission in the exercise of the jurisdiction of the Commission.

Proof of Commission orders

28(1) A copy of a notice, order, decision or other document purporting to be issued under the authority of the Commission, certified as a true copy by a solicitor acting on behalf of the

Commission, shall be admitted in evidence to prove the notice, order, decision or other document and its contents without any proof of the authority of the person by whom the notice, order, decision or other document purports to be signed and without any proof of the signature or of the authority of the solicitor or of the solicitor's appointment.

(2) A decision or order of the Commission need not show on its face that

- (a) any proceeding was conducted or notice was given, or
- (b) any circumstances necessary to give the Commission jurisdiction to make the decision or order existed.

(3) A copy of any record or other document belonging to or deposited with the Commission certified as a true copy by a solicitor acting on behalf of the Commission or by a person authorized for the purpose by the Commission is admissible in evidence in all proceedings in which the original record or other document would be admissible in evidence.

Part 4 Appeals

Appeals from Commission

29(1) Subject to subsection (2), an appeal lies from a decision or order of the Commission to the Court of Appeal on a question of jurisdiction or on a question of law.

(2) An application for leave to appeal must be filed and served within 30 days from the day that the decision or order sought to be appealed from was made, or within a further period of time granted by the judge where, in the opinion of the judge, the circumstances warrant it.

(3) Notice of an application for leave to appeal must be given to the parties affected by the appeal and to the Commission.

(4) If an applicant makes a written request to the Commission for materials for the purpose of the application for leave to appeal, the Commission shall provide the materials requested within 14 days from the date on which the written request is served on the Commission.

(5) An applicant shall not request under subsection (4) the transcript of the hearing, but the Court of Appeal may, on application or on its own motion, if satisfied that the transcript is necessary for the purpose of determining the application for leave to appeal, direct that the Commission provide the transcript within the time provided by the Court.

(6) A decision or order of the Commission takes effect at the time prescribed by the decision or order, and the operation of the decision or order is not suspended by the commencement or conduct of any appeal to the Court of Appeal or of any further appeal.

(7) Notwithstanding subsection (6), where the Commission thinks fit, the Commission may suspend the operation of a decision or order 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.

(8) On leave to appeal being granted by a judge of the Court of Appeal, the appeal shall proceed in accordance with the practice and procedure of the Court of Appeal.

(9) The notice of appeal must be given to the parties affected by the appeal and to the Commission.

(10) Within 30 days from the day that leave to appeal is obtained, the Commission shall forward to the Registrar of the Court of Appeal the transcript and record of the hearing, its findings and reasons for the decision or order.

(11) On the hearing of the appeal,

- (a) no evidence may be admitted other than the evidence that was submitted to the Commission on the making of the decision or 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 Commission and that are necessary for determining the question of jurisdiction or of law, as the case may be, and shall certify its opinion to the Commission;

(c) the Court of Appeal shall proceed to confirm, vacate or give directions to vary the decision or order that is being appealed, and where the Court vacates or gives directions to vary the decision or order, the Court shall refer the matter back to the Commission for further consideration and redetermination.

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

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

(14) If a decision or order is vacated or a variation is directed, the matter must be reconsidered and redetermined by the Commission, and the Commission shall vary or rescind its decision or order in accordance with the judgment of the Court of Appeal or the Supreme Court of Canada, as the case may be.

Exclusion of judicial review

30 Subject to the right of appeal under section 29, every action, order, ruling or decision of the Commission, the Chair or a person exercising the powers or performing the duties of the Commission or the Chair is final and shall not be questioned or reviewed in any court by application for judicial review or otherwise, and no order shall be made or process entered or proceedings taken in any court, by way of injunction, declaratory judgment, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the Commission or the Chair or any of the Commission's proceedings.

Part 5 Office of the Utilities Consumer Advocate

Definition

31 In this Part, "customer" means

- (a) with respect to electric energy, an eligible customer as defined in the *Regulated Rate Option Regulation* (AR 262/2005),
- (b) with respect to natural gas, a customer eligible for the default rate tariff as defined in section 28(c) of the *Gas*

Utilities Act who meets the requirements set out in the regulations under section 45, and

- (c) with respect to water, a customer of a water utility that is under the jurisdiction of the Commission who meets the requirements set out in the regulations under section 45.

Office of the Utilities Consumer Advocate

32 There is hereby established the Office of the Utilities Consumer Advocate as a part of the Commission.

Utilities Consumer Advocate

33(1) The Minister shall appoint as Utilities Consumer Advocate an individual who

- (a) is independent of any person who has a material interest in the Alberta utility industry, and
- (b) will enhance the performance of the Office of the Utilities Consumer Advocate in carrying out its responsibilities.

(2) The individual appointed as Utilities Consumer Advocate may be appointed for a term not exceeding 5 years.

(3) The individual appointed as Utilities Consumer Advocate is eligible to be reappointed for one or more terms not exceeding 5 years each.

(4) The individual appointed as Utilities Consumer Advocate continues to hold office after the expiry of his or her term of office until he or she is reappointed, a successor is appointed or a period of 3 months has elapsed, whichever occurs first.

(5) The individual appointed as Utilities Consumer Advocate may be paid the reasonable remuneration set out in the budget of the Office of the Utilities Consumer Advocate as approved by the chair of the governance board.

(6) In carrying out the responsibilities of the Office of the Utilities Consumer Advocate, the individual appointed as Utilities Consumer Advocate shall

- (a) act honestly, in good faith and in the interest of customers,

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

Responsibilities of Office of the Utilities Consumer Advocate

34(1) The Office of the Utilities Consumer Advocate has the following responsibilities:

- (a) to represent the interests of customers at hearings and other proceedings of the Commission and other bodies whose decisions may affect the interests of those customers, with the objective of ensuring
 - (i) the lowest possible charges by utilities to customers that are consistent with safe and reliable service, and
 - (ii) reasonable terms and conditions of service;
- (b) to disseminate independent and impartial information about the regulatory process relating to electric energy, natural gas and water, including analysis of the impact of decisions of the Commission, other bodies and the courts relating to electric energy, natural gas and water;
- (c) to consult directly with customers on a regular basis in order to determine the concerns of customers with respect to electric energy, natural gas and water and the other responsibilities of the Office of the Utilities Consumer Advocate;
- (d) to inform, educate and advise customers about use, conservation and purchase of electric energy, natural gas and water;
- (e) to advise customers of their rights and responsibilities with respect to the provision of electric energy, natural gas and water;
- (f) to inquire and assist in resolving customer concerns and complaints with respect to electric energy, natural gas and water.

(2) In carrying out its responsibilities under this Part, the Office of the Utilities Consumer Advocate shall act independently of the Commission.

Conflicts of interest

35 The Commission shall develop appropriate procedures to ensure that the activities of the Office of the Utilities Consumer Advocate do not create a conflict of interest for any employee of the Commission providing services to the Office of the Utilities Consumer Advocate, including but not limited to the development of a code of conduct and procedures for employees of the Commission and outside legal or technical experts to ensure that a person providing services to or advising the Office of the Utilities Consumer Advocate is not also providing services to or advising the Commission in regard to the same complaint or proceeding.

Governance board

36(1) The Minister may appoint as members of a governance board of the Office of the Utilities Consumer Advocate not more than 7 individuals who, in the opinion of the Minister, represent the interests of customers and who

- (a) are independent of any person who has a material interest in utilities regulated by the Commission, and
- (b) will enhance the operation of the governance board in carrying out its duties, responsibilities and functions.

(2) The Minister may designate one of the members as chair of the governance board.

(3) A member of the governance board may be appointed for a term of not more than 3 years.

(4) A member of the governance board is eligible to be reappointed but may not serve more than 3 terms of office.

(5) A member of the governance board continues to hold office after the expiry of the member's term until the member is reappointed, the member's successor is appointed or a period of 3 months has elapsed, whichever occurs first.

(6) A member of the governance board may be paid the reasonable remuneration prescribed by the Minister, which is to be included in the budget of the Office of the Utilities Consumer Advocate.

Function of governance board

37(1) The governance board shall oversee the operations of the Office of the Utilities Consumer Advocate, including but not limited to

- (a) directing the Office of the Utilities Consumer Advocate concerning the position it will take regarding its representation of the interests of customers in hearings and other proceedings of the Commission and other bodies and in meetings with representatives of utilities regulated by the Commission,
- (b) assisting and advising the Office of the Utilities Consumer Advocate regarding obtaining the opinions of customers with respect to the provision of electric energy, natural gas and water by utilities regulated by the Commission,
- (c) reviewing proposed costs of hiring outside legal or technical experts in advance of engaging the legal or technical experts for the purposes of a hearing or other proceeding before the Commission and other bodies, and
- (d) reviewing and approving the annual budget of the Office of the Utilities Consumer Advocate.

(2) The governance board may establish procedures to regulate its activities.

(3) Each member of the governance board shall ensure that the member at least annually

- (a) informs the customers represented by that member of the actions taken by the Office of the Utilities Consumer Advocate in carrying out its responsibilities, and
- (b) informs the Office of the Utilities Consumer Advocate of the concerns of the customers represented by that member.

(4) In carrying out any duty, responsibility or function as a member of the governance board, the member shall

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

(5) The chair of the governance board shall prepare an annual report and provide it to the Chair of the Commission.

Budget

38(1) The Office of the Utilities Consumer Advocate shall prepare a budget for each fiscal year, for approval by the governance board, setting out

- (a) the estimated expenditures, costs and expenses of the Office of the Utilities Consumer Advocate to carry out its responsibilities,
- (b) an estimate of the expected costs and expenses of representing customers in hearings and other proceedings of the Commission and other bodies, and
- (c) the estimated costs and expenses of the governance board.

(2) The budget of the Office of the Utilities Consumer Advocate referred to in subsection (1) may include a requirement that the Chair of the Commission hire or engage the services of persons with specific expertise or qualifications to enable the Office of the Utilities Consumer Advocate to carry out its responsibilities.

(3) The Office of the Utilities Consumer Advocate may amend its budget with the approval of the governance board.

(4) In reviewing and approving the budget of the Office of the Utilities Consumer Advocate, the governance board shall consider the need to provide the Office of the Utilities Consumer Advocate with sufficient personnel and resources to allow for effective representation of customers in hearings and other proceedings of the Commission and other bodies and the performance of the duties of the Office of the Utilities Consumer Advocate.

(5) The chair of the governance board shall forward the approved budget to the Chair of the Commission for payment in accordance with the rules made under section 44.

(6) The Chair of the Commission shall ensure that the expenditures, costs and expenses shown in the approved budget are paid without delay.

Representation of customers

39(1) The Commission shall make arrangements to provide personnel and resources in accordance with the budget of the Office of the Utilities Consumer Advocate, including the services of legal counsel and technical experts, to the Office of the Utilities Consumer Advocate.

(2) The governance board shall review the proposed costs of hiring outside legal counsel and technical experts for the purposes of a hearing or other proceeding of the Commission or another body that involves the interests of customers, and shall refer the approved costs to the Commission for payment.

(3) If, due to conflict, the Office of the Utilities Consumer Advocate is unable to fairly represent all of the customers who have an interest in a hearing or other proceeding of the Commission or another body, the Utilities Consumer Advocate shall seek direction from the governance board regarding which customers the Office of the Utilities Consumer Advocate shall represent.

(4) The governance board shall advise the Commission of its direction to the Office of the Utilities Consumer Advocate under subsection (3) and shall make recommendations to the Commission in respect of funding the representation of those customers the Office of the Utilities Consumer Advocate is unable to represent, which may include the allocation of additional funding in an amount approved by the governance board or the hiring of outside legal counsel or technical experts to represent those customers, or both.

(5) The Commission shall ensure that the costs approved by the governance board under this section are paid without delay.

(6) For the purposes of subsection (2), the Utilities Consumer Advocate may require that the Chair of the Commission hire or engage the services of persons with specific expertise or

qualifications to enable the Office of the Utilities Consumer Advocate to carry out its responsibilities.

Complaints

40(1) Any customer may make a complaint or refer a matter to the Office of the Utilities Consumer Advocate.

(2) A 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.

(3) The Office of the Utilities Consumer Advocate may decline to deal with a complaint or referral if the Utilities Consumer Advocate is satisfied that

- (a) the complaint or referral is frivolous, vexatious or trivial or otherwise does not warrant the taking of action, or
- (b) the person making the complaint or referral is not a customer.

(4) The Office of the Utilities Consumer Advocate may deal with a complaint in accordance with section 34(1)(e) or (f), or, if in the opinion of the Utilities Consumer Advocate it would be appropriate to do so, refer the person making the complaint or referral to a board, agency, commission or department of the Government of Alberta for assistance with the complaint or referral.

Collection, use and disclosure of personal information

41 The Office of the Utilities Consumer Advocate may collect, use and disclose personal information as defined in the *Freedom of Information and Protection of Privacy Act* for the purpose of carrying out the responsibilities of the Office of the Utilities Consumer Advocate under this Part.

Complaints to governance board

42(1) Any person may make a written complaint to the chair of the governance board about the conduct of the Office of the Utilities Consumer Advocate.

(2) The chair

- (a) shall dismiss the complaint if the chair is satisfied that it does not deal with a matter that is part of the responsibilities of the Office of the Utilities Consumer Advocate, or
- (b) may dismiss the complaint if the chair is satisfied that the complaint is frivolous, vexatious or trivial or otherwise does not warrant the taking of action.

(3) If the chair of the governance board decides not to dismiss a complaint in accordance with subsection (2), the chair may refer the complaint to the governance board to be dealt with as it considers appropriate.

Protection from action

43 No action or proceeding in respect of any act or thing done or omitted to be done or purported to be done or omitted to be done in good faith under this or any other enactment may be brought against the Utilities Consumer Advocate, a person providing services to the Office of the Utilities Consumer Advocate or a member of the governance board.

Commission rules

44 The Commission may make rules respecting the form and manner of payment of amounts approved by the governance board under section 38 or 39(2) or (4).

Regulations

45 The Minister may make regulations

- (a) adding to, clarifying, limiting or restricting any of the responsibilities of the Office of the Utilities Consumer Advocate or the governance board or regulating how they are to be carried out;

- (b) respecting eligibility requirements in respect of customers as defined in section 31(b) and (c);
- (c) respecting the amounts and the process for determining the amounts to be provided by customers through tariffs approved by the Commission to fund all or part of the budget of the Office of the Utilities Consumer Advocate;
- (d) respecting the amounts and the process for determining the amounts to be provided through utilities hearing cost reserve accounts to fund all or part of the Office of the Utilities Consumer Advocate's representation of customers at hearings or other proceedings of the Commission and other bodies;
- (e) respecting any other matter necessary to carry out the intent of this Part.

Part 6 Market Surveillance Administrator

Interpretation

46(1) In this Part,

- (a) "Balancing Pool" means the Balancing Pool established by the *Electric Utilities Act*;
- (b) "electricity customer" means "customer" as defined in the *Electric Utilities Act*;
- (c) "electricity market" means "market" as defined in the *Electric Utilities Act*;
- (d) "electricity market participant" means a "market participant" as defined in the *Electric Utilities Act*;
- (e) "electricity retailer" means a "retailer" as defined in the *Electric Utilities Act*;
- (f) "Independent System Operator" and "ISO" mean the Independent System Operator established by the *Electric Utilities Act*;
- (g) "natural gas customer" means "customer" as defined in the *Gas Utilities Act*;

- (h) “natural gas 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 natural gas market participant;
- (i) “natural gas market participant” means
 - (i) a natural gas retailer,
 - (ii) a gas distributor,
 - (iii) a default supply provider, or
 - (iv) an affiliate, as defined in regulations made under the *Gas Utilities Act*, of a natural gas retailer, gas distributor or default supply provider;
- (j) “natural gas retailer” means a “retailer” as defined in the *Gas Utilities Act*.

(2) For the purposes of this Part, the following words and phrases have the meaning given to them by the *Electric Utilities Act*:

- (a) ancillary services;
- (b) electric distribution system;
- (c) electric energy;
- (d) electricity;
- (e) generating unit;
- (f) interconnected electric system;
- (g) owner;
- (h) power purchase arrangement;
- (i) record;
- (j) regulated rate provider;
- (k) retail electricity services.

(3) For the purposes of this Part, the following words and phrases have the meaning given to them by the *Gas Utilities Act*:

- (a) default supply provider;
- (b) gas distributor;
- (c) retail gas services.

(4) For the purposes of this Part, “affiliated retailer”

- (a) when used in respect of the electricity market has the meaning given to it by regulations under the *Electric Utilities Act*, and
- (b) when used in respect of the natural gas market has the meaning given to it by regulations under the *Gas Utilities Act*.

Division 1 Corporate Organization

MSA continued, status

47(1) The corporation known as the Market Surveillance Administrator established by the *Electric Utilities Act* is continued.

(2) The Market Surveillance Administrator consists of the individual appointed as Market Surveillance Administrator under section 48.

(3) The Market Surveillance Administrator is not a Provincial corporation for the purposes of the *Financial Administration Act*, the *Auditor General Act* or any other enactment.

(4) For the purposes of the *Government Accountability Act*, the Market Surveillance Administrator is not part of the ministry, as defined in that Act, of any Minister of the Government of Alberta.

(5) The Market Surveillance Administrator is not an agent of the Crown.

Appointment of MSA, remuneration

48(1) The Minister shall appoint as the Market Surveillance Administrator an individual who, in the opinion of the Minister,

- (a) is independent of any person who has a material interest in the Alberta electric or natural gas industry, and
 - (b) will enhance the performance of the Market Surveillance Administrator in carrying out its mandate.
- (2) The individual appointed as Market Surveillance Administrator shall oversee the business and affairs of the Market Surveillance Administrator.
- (3) The term of office of the individual appointed as Market Surveillance Administrator is not more than 5 years.
- (4) The individual appointed as Market Surveillance Administrator is eligible to be reappointed for one or more terms not exceeding 5 years each.
- (5) The individual appointed as Market Surveillance Administrator continues to hold office after the expiry of his or her term of office until he or she is reappointed, a successor is appointed or a period of 3 months has elapsed, whichever occurs first.
- (6) The individual appointed as Market Surveillance Administrator may be paid the reasonable remuneration set out in the budget of the Market Surveillance Administrator as approved by the Chair.
- (7) In carrying out the mandate of the Market Surveillance Administrator, the individual appointed as Market Surveillance Administrator shall
- (a) act honestly, in good faith and in the public interest,
 - (b) avoid conflicts of interest, and
 - (c) exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances.

Natural person powers

- 49(1)** Subject to this Act and the regulations made under section 74, the Market Surveillance Administrator has the rights, powers and privileges of a natural person.
- (2) Except when the power to delegate is restricted by this Act or regulations made under section 74, the Market Surveillance

Administrator may delegate any power or duty conferred or imposed on it under this or any other enactment

- (a) to any of the officers or employees of the Market Surveillance Administrator, or
- (b) to any other qualified person as the Market Surveillance Administrator considers appropriate.

(3) The Market Surveillance Administrator may not delegate the power to approve annual financial statements.

(4) The Market Surveillance Administrator may enter into arrangements or agreements with responsible authorities outside Alberta relating to

- (a) the powers and mandate of the Market Surveillance Administrator, or
- (b) the co-operative enforcement of legislation relating to enactments affecting the electric industry or the natural gas industry.

Auditor

50 The Market Surveillance Administrator shall appoint an independent auditor to review and audit its financial statements.

MSA budget

51(1) The Market Surveillance Administrator shall prepare a budget for each fiscal year, for approval by the Chair, setting out

- (a) the estimated expenditures, costs and expenses of the Market Surveillance Administrator to carry out its mandate, which may include expenditures for capital assets allocated over the expected useful life of the assets, and
- (b) its estimated revenues.

(2) The Market Surveillance Administrator may, with the approval of the Chair, amend its budget.

(3) The Market Surveillance Administrator must be managed so that, on an annual basis, no profit or loss results from its operation.

Budget approval

52(1) The budget of the Market Surveillance Administrator or an amendment to the budget has no effect until it has been approved by the Chair.

(2) The Chair

- (a) must be satisfied that the Market Surveillance Administrator's budget and any amendment to it is reasonable and will provide the Market Surveillance Administrator with sufficient resources to effectively carry out its mandate,
- (b) shall act in a timely way on receipt of a budget or an amendment to it,
- (c) may approve the budget or any amendment to it with or without modifications or conditions, and
- (d) shall send a copy of the approved budget or any approved amendment to the budget to the Independent System Operator.

(3) Subject to regulations made under section 74(1)(b), on receipt of the approved budget or an approved amendment to the budget of the Market Surveillance Administrator, the Independent System Operator shall pay to the Market Surveillance Administrator the aggregate of the estimated expenditures, costs and expenses less the revenues shown in the budget, in a manner and at a time agreed on by them.

(4) Subject to regulations made under section 74(1)(b), if in respect of any year the Independent System Operator and the Market Surveillance Administrator fail to agree on the manner and timing of paying the amounts referred to in subsection (3), the Independent System Operator shall pay those amounts to the Market Surveillance Administrator in equal monthly instalments.

Reports

53(1) The Market Surveillance Administrator shall, within 120 days after the end of its fiscal year, provide to the Minister an annual report

- (a) reporting on its activities in the fiscal year, and

(b) containing its audited financial statements for the fiscal year.

(2) After the annual report has been provided to the Minister, the Market Surveillance Administrator shall make it public.

(3) The Market Surveillance Administrator shall provide to the Minister any other reports and records relating to its mandate that the Minister requests.

(4) The Market Surveillance Administrator may make available to the Minister reports on market events or conditions or other records including reports or records pertaining to the Market Surveillance Administrator's findings and views on matters relating to its mandate.

(5) The Market Surveillance Administrator may, subject to regulations and rules made under section 74, make public any reports or records referred to in subsection (3) or (4).

Division 2 Mandate of the Market Surveillance Administrator

MSA mandate

54(1) Subject to regulations made under section 74(1)(a), the Market Surveillance Administrator has the mandate

- (a) to carry out surveillance in respect of
 - (i) the supply, generation, transmission, distribution, trade, exchange, purchase or sale of electricity, electric energy, electricity services or ancillary services or any aspect of those activities, and
 - (ii) the provision of retail gas services, or services provided under a default rate tariff, to natural gas customers by natural gas market participants, or any aspect of those activities,
- (b) to investigate matters, on its own initiative or on receiving a complaint or referral under section 56, and to undertake activities to address
 - (i) contraventions of the *Electric Utilities Act*, the regulations under that Act, the ISO rules, Part 2.1 of

the *Gas Utilities Act* or the regulations under that Act or of decisions, orders or rules of the Commission,

- (ii) conduct that does not support the fair, efficient and openly competitive operation of the electricity market or the natural gas market, and
- (iii) any other matters that relate to or affect the structure and performance of the electricity market or the natural gas market,

including negotiating and entering into settlement agreements and bringing matters before the Commission.

(2) Without limiting the generality of subsection (1), the Market Surveillance Administrator's mandate

- (a) in respect of the electricity market includes surveillance and, where applicable, investigation and enforcement, in respect of any one or more of the following:
 - (i) the conduct of electricity market participants;
 - (ii) the structure and performance of the electricity market;
 - (iii) the conduct of the Independent System Operator;
 - (iv) the conduct of the Balancing Pool;
 - (v) the conduct of owners of generating units to which power purchase arrangements apply in meeting their obligations to provide the generating capacity set out in those power purchase arrangements;
 - (vi) arrangements, information sharing and decisions relating to electricity market participants exchanging or wishing to exchange electric energy and ancillary services or any aspect of those activities;
 - (vii) arrangements, information sharing and decisions relating to electricity market participants providing or wishing to provide retail electricity services to electricity customers, or any aspect of those activities;

- (viii) the relationship between the owner of an electric distribution system and its affiliated retailers or other retailers, or any aspect of the parties in the relationship;
- (ix) the relationship between the owner of an electric distribution system and a regulated rate provider or between the regulated rate provider and an affiliated retailer, or any aspect of the parties in the relationship;
- (x) electricity exchanges on the tie lines connecting the interconnected electric system in Alberta with electric systems outside Alberta;
- (xi) any other conduct that may be specified in the regulations made under section 74(1)(a) and (f),

and

- (b) in respect of the natural gas market includes surveillance and, where applicable, investigation and enforcement, in respect of any one or more of the following:
 - (i) the conduct of natural gas market participants;
 - (ii) the structure and performance of the natural gas market;
 - (iii) arrangements, information sharing and decisions relating to natural gas 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;
 - (iv) the relationship between a gas distributor and its affiliated retailers or other retailers, or any aspect of the parties in the relationship;
 - (v) 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;
 - (vi) any other conduct that may be specified in the regulations made under section 74(1)(a) and (f).

(3) In carrying out its mandate, the Market Surveillance Administrator shall assess whether or not

- (a) the conduct of electricity market participants and natural gas market participants supports the fair, efficient and openly competitive operation of the electricity market or the natural gas market, as the case may be, and
- (b) the person carrying out the conduct has complied with or is complying with
 - (i) the *Electric Utilities Act*, the regulations under that Act, the ISO rules, market rules and any arrangements entered into under the *Electric Utilities Act* or the regulations under that Act, in the case of an electricity market participant,
 - (ii) the *Gas Utilities Act*, the regulations under that Act, market rules and any arrangements entered into under the *Gas Utilities Act* or the regulations under that Act, in the case of a natural gas market participant, or
 - (iii) a decision, order or rule of the Commission,

and

- (c) the ISO rules are sufficient to discourage anti-competitive practices in the electric industry and whether or not the ISO rules support the fair, efficient and openly competitive operation of the electricity market.

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

Duty to act fairly and responsibly

55 The Market Surveillance Administrator shall carry out its mandate in a fair and responsible manner.

Division 3
Complaints to and
Investigations by the Market
Surveillance Administrator

Complaints or referrals to MSA

56(1) Any person may make a complaint or refer a matter to the Market Surveillance Administrator.

(2) Without limiting the generality of subsection (1), the Independent System Operator and the Commission may refer a matter to the Market Surveillance Administrator.

(3) A complaint under subsection (1) must be in writing and must include

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

Investigation and notification

57(1) The Market Surveillance Administrator

- (a) may, on its own initiative, investigate any matter that is within its mandate,
- (b) unless section 58 applies, shall 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 electricity market or the natural gas market.

(2) The Market Surveillance Administrator shall notify the person making a complaint or referral of the results of an investigation conducted in response to the complaint or referral.

Decision not to investigate or to discontinue investigation

58(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 shall give written notice of a decision under subsection (1) to the person who made the complaint or referral, giving reasons for it.

Settlement

59(1) The Market Surveillance Administrator may negotiate a settlement with a person to resolve any matter that relates to the mandate of the Market Surveillance Administrator and may enter into a settlement agreement with the person.

(2) The Market Surveillance Administrator shall file a settlement agreement with the Commission for approval under section 66(1)(b).

(3) Division 3 of Part 9 of the *Electric Utilities Act* and sections 28.51 to 28.8 of the *Gas Utilities Act* do not apply to a settlement of a matter under this section.

Notice to another body having jurisdiction

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

the Market Surveillance Administrator shall notify the appropriate body of the matter and may make available to that body any records in its possession that are relevant to the matter.

(2) The Market Surveillance Administrator may

- (a) discontinue an investigation if the matter appears to be within the jurisdiction of another body and in that event shall notify the person who made a complaint or referral of the discontinuance, giving reasons for the decision, or
- (b) continue an 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

61(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 or employees or any other person to do, any or all of the following:

- (a) enter and inspect the premises of an electricity market participant or a natural gas market participant, the Independent System Operator or the Balancing Pool;
- (b) make reasonable inquiries of an employee or former employee of, or a person engaged or formerly engaged under contract by, a person referred to in clause (a) 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 an electricity market participant or natural gas market participant, the Independent System Operator or the Balancing Pool to search any data or information contained in or available to the system and produce a record from the data.

(2) An activity carried out or action taken by or on behalf of the Market Surveillance Administrator under subsection (1) must be carried out or taken at a reasonable time.

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

(4) A person referred to in subsection (1)(a) or (b) shall co-operate reasonably with the Market Surveillance Administrator.

(5) If the premises referred to in subsection (1)(a) is a dwelling-house, the Market Surveillance Administrator or a person authorized by the Market Surveillance Administrator may not enter that dwelling-house without the consent of the occupant except under the authority of an order under section 62.

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

Court order

62(1) In this section and in sections 64 and 65, “Court” means the Court of Queen’s Bench.

(2) The Market Surveillance Administrator may apply to the Court by originating notice for an order under subsection (3)

- (a) if any person hinders, obstructs or impedes the Market Surveillance Administrator or refuses to respond to inquiries, produce records or provide access to computer systems in response to a request under section 61(1) or otherwise refuses to co-operate with the Market Surveillance Administrator in the carrying out of its mandate, or
- (b) if the Market Surveillance Administrator has reason to believe that requesting access to premises or computer systems or requesting the production of records may result in the destruction of evidence.

(3) If the Court is satisfied that there are reasonable and probable grounds to believe that the provision of responses to inquiries, access to premises or computer systems, the production or removal of records or other relief 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.

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

Protection for individuals

63(1) No person shall be excused from complying with an order under section 62(3) on the grounds that the testimony or records might tend to incriminate the person or subject the person to penalty or forfeiture.

(2) A person who testifies or produces records pursuant to an order under section 62(3) has the right to not have any incriminating evidence so given used to incriminate that person in any other proceedings under any other Act or a regulation under any other Act except a prosecution for or proceedings in respect of perjury or the giving of contradictory evidence.

Return of records

64(1) The Market Surveillance Administrator shall 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 records 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 shall

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

(4) Copies of original records 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 records.

Claim of solicitor-client privilege

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

(3) The person claiming privilege shall serve notice of the application and any supporting material on the person having custody of the package, on the Market Surveillance Administrator and on 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, shall 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 shall reseal the contents.

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

- (a) that the claim of privilege is proper, it shall order that the record be returned immediately to the person from whom it was seized, or
- (b) that the claim of privilege is not proper, it shall order that the record 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.

Request for hearing or other proceeding

66(1) If the Market Surveillance Administrator is satisfied that

- (a) a person
 - (i) has contravened the *Electric Utilities Act*, the regulations under that Act or the ISO rules,
 - (ii) has contravened Part 2.1 of the *Gas Utilities Act* or the regulations under that Act,
 - (iii) has contravened a decision, order or rule of the Commission, or
 - (iv) has engaged in conduct that does not support the fair, efficient and openly competitive operation of the electricity market or the natural gas market, as the case may be,

or

- (b) any other matter relating to the mandate of the Market Surveillance Administrator should be considered by the Commission,

the Market Surveillance Administrator may give written notice to the Commission.

(2) The notice must set out

- (a) a request that a hearing or other proceeding be initiated and the reasons for the request;
- (b) the names of the persons concerned, if applicable;
- (c) reasonable particulars of the contravention, conduct or other matter that is to be presented to the Commission;
- (d) a statement of the order or other relief the Market Surveillance Administrator proposes to request from the Commission;

(e) any other matter specified in the Commission rules.

(3) The Market Surveillance Administrator shall serve the notice on any persons named in the notice in accordance with the Commission rules.

Contravention of ISO rule

67(1) Notwithstanding section 66, where the Market Surveillance Administrator is satisfied that a person has contravened an ISO rule made under the *Electric Utilities Act* for which a penalty has been specified by the Commission under subsection (6), the Market Surveillance Administrator may issue a notice of specified penalty to the person in accordance with the rules made under subsection (6).

(2) Where

- (a) a person fails to pay a specified penalty in accordance with the notice of specified penalty issued under subsection (1), or
- (b) a person named in the notice of specified penalty disputes the issuing of the notice,

the Market Surveillance Administrator shall give written notice to the Commission requesting a hearing in accordance with section 66.

(3) If the person to whom the notice of specified penalty was issued under subsection (1) fails to attend before the Commission, the Commission may conduct the hearing ex parte.

(4) At the conclusion of its hearing, the Commission may

- (a) rescind the notice of specified penalty issued under subsection (1),
- (b) confirm the specified penalty set out in the notice of specified penalty, or
- (c) impose an administrative penalty on the person in accordance with section 78.

(5) A notice of specified penalty confirmed by the Commission under subsection (4)(b) may be filed with the Court of Queen's

Bench in the same manner and with the same effect as a certificate in respect of an administrative penalty under section 82.

(6) The Commission may make rules

- (a) prescribing the form and contents of notices of specified penalty for the purposes of this section;
- (b) prescribing contraventions of ISO rules in respect of which a specified penalty may be imposed and prescribing the amounts, up to a maximum of \$100 000 per day, or the manner of determining the amounts, of the specified penalties that may be imposed;
- (c) prescribing limitation periods for the giving of notices of specified penalty.

Hearing or other proceeding

68 On receiving a notice from the Market Surveillance Administrator, the Commission shall hold a hearing or other proceeding into the matters set out in the Market Surveillance Administrator's notice, which matters may be amended with the consent of the Commission.

Consent orders

69 If the Market Surveillance Administrator and the person named in a notice agree on a means to resolve all or part of a matter before the Commission, they may request the Commission to issue a consent order in respect of the matter or part of the matter.

Amendment or termination of proceedings

70(1) If the Commission 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 Commission may amend or terminate all or part of the proceedings.

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

Decision of Commission

71(1) Within 90 days after the conclusion of a hearing or other proceeding, the Commission shall make a decision.

(2) In making a decision, the Commission may take into consideration any guidelines made by the Market Surveillance Administrator under section 54(4).

(3) The Commission may make an order

(a) if it is of the opinion that a person

- (i) has contravened the *Electric Utilities Act*, the regulations under that Act or the ISO rules,
- (ii) has contravened the *Gas Utilities Act* or the regulations under that Act,
- (iii) has contravened a decision, order or rule of the Commission, or
- (iv) has engaged in conduct that does not support the fair, efficient and openly competitive operation of the electricity market or the natural gas market,

or

(b) in respect of a matter that the Market Surveillance Administrator has brought before the Commission under section 66(1)(b).

(4) The Commission may

(a) in respect of a person referred to in subsection (3)(a), by order do any or all of the following:

- (i) impose an administrative penalty on the person under section 78;
- (ii) impose any terms and conditions the Commission considers appropriate on the person relating to the person's future conduct in the electricity market or the natural gas market;
- (iii) prohibit the person from engaging in conduct specified in the order or direct the person to take action specified in the order;

(b) provide direction or make any order it considers appropriate in respect of a matter referred to in subsection (3)(b).

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

Division 4 Regulatory Forbearance, Complaints to the Commission and Regulations

Regulatory forbearance

72(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 carrying out 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 shall 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

73(1) Any person may make a written complaint to the Commission about the conduct of the Market Surveillance Administrator.

(2) The Commission

- (a) shall dismiss the complaint if the Commission is satisfied that it relates to a matter the substance of which is before or has been dealt with by the Commission or any other body, or
- (b) may dismiss the complaint if the Commission is satisfied that the complaint is frivolous, vexatious or trivial or otherwise does not warrant an investigation or a hearing.

(3) The Commission may, in considering a complaint, do one or more of the following:

- (a) dismiss all or part of the complaint;
 - (b) direct the Market Surveillance Administrator to change its conduct in relation to a matter that is the subject of the complaint;
 - (c) direct the Market Surveillance Administrator to refrain from the conduct that is the subject of the complaint.
- (4) A decision of the Commission under subsection (2) or (3) is final and may not be appealed under section 29.

Regulations

74(1) 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 the powers are to be exercised and the mandate is to be carried out;
- (b) respecting payment of a portion of the budget of the Market Surveillance Administrator by persons other than the Independent System Operator and respecting who is to make all or part of the payment;
- (c) 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;
- (d) respecting the records, reports or other information to be provided to the Market Surveillance Administrator by electricity market participants and natural gas market participants, the Independent System Operator and the Balancing Pool, the use that the Market Surveillance Administrator may make of the records, reports or information, and limitations on that use;
- (e) respecting the publication, disclosure and confidentiality of records created by, viewed by, provided to or obtained by the Market Surveillance Administrator and the right of the public to have access to all or any of them;

- (f) respecting conduct or any other matter relating to or that supports the fair, efficient and openly competitive operation of the electricity market or natural gas market, including approaches or measures to mitigate market power.

(2) The Commission may make rules that are not inconsistent with regulations made under subsection (1) respecting the publication, disclosure and confidentiality of records and reports provided to or created by the Market Surveillance Administrator.

Division 5 Liability

Definition

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

Liability protection of MSA

76(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, the regulations and any other enactment;
- (c) “market surveillance person” means
 - (i) the Market Surveillance Administrator,
 - (ii) the individual appointed as 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 shall indemnify that market surveillance person for, and pay to or on behalf of 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) Amounts paid to or on behalf of a market surveillance person under subsection (5) may be recovered by the Market Surveillance Administrator from the Independent System Operator through an approved budget or an approved amended budget under section 52(3).

Regulations

77 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.

Part 7 Administrative Penalties and Offences

Administrative penalties

78(1) If the Commission, after a hearing or other proceeding, determines that a person has contravened or failed to comply with any provision of this Act or any other enactment under the jurisdiction of the Commission, any decision or order of the Commission, Commission rule or ISO rule, the Commission may impose an administrative penalty on that person.

(2) An administrative penalty imposed under subsection (1) may require the person to whom it is directed to pay either or both of the following:

- (a) an amount not exceeding \$1 000 000 for each day or part of a day on which the contravention occurs or continues;

(b) a one-time amount to address economic benefit where the Commission is of the opinion that the person has derived an economic benefit directly or indirectly as a result of the contravention.

(3) In addition to any penalty imposed under subsection (1), the Commission may impose any terms and conditions the Commission considers appropriate on the person and prohibit the person from engaging in conduct specified in the order or direct the person to take action specified in the order.

(4) A person who pays an administrative penalty in respect of a contravention may not be charged under this Act or any other enactment with an offence in respect of that contravention.

(5) If an order is against a corporation, any officer or director 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.

(6) An administrative penalty paid to the Commission under this section or pursuant to section 82 shall be paid into the General Revenue Fund.

Offences

79(1) A person who fails to comply with an order of the Commission is guilty of an offence.

(2) A person who fails to comply with this Act, any Commission rule or regulation made under this Act or an ISO rule is guilty of an offence.

(3) A person who advises, solicits, persuades, instructs, directs or orders a person to perform, commit or do an act or thing prohibited by this Act, the rules or regulations made under this Act or an ISO rule is guilty of an offence.

(4) Every director or officer of a corporation who directs, authorizes, assents to, acquiesces in or participates in the commission of an offence under subsection (1) or (2) by the corporation, whether or not the corporation has been prosecuted for or convicted of the offence, is guilty of an offence.

(5) A person who is guilty of an offence under this section is liable to a fine not exceeding \$5 000 000 for each day or part of a day on which the offence occurs or continues.

(6) Where a person is convicted of an offence under this section and the court is satisfied that as a result of the commission of the offence the offender derived an economic benefit directly or indirectly, the court may order the offender to pay, in addition to a fine under subsection (5), a fine in an amount equal to the court's estimation of the amount of the economic benefit.

Limitation period

80 An administrative penalty may not be imposed nor may a prosecution be commenced

- (a) after 5 years from the date that the facts that constitute the alleged offence become known to the Commission, or
- (b) after 10 years from the day of the occurrence of the event that gave rise to the proceedings,

whichever occurs first.

Investigation costs

81 If, in respect of a person whose affairs were the subject of an investigation, the Commission is satisfied that the person has not complied with, or is not complying with, this Act or the regulations or any other enactment within the jurisdiction of the Commission or any order, decision of the Commission, Commission rule or ISO rule, the Commission may, after conducting a hearing or other proceeding, order the person to pay the costs of the investigation, subject to the rules under section 91(1)(h).

Enforcement of payment of penalties and costs

82(1) Subject to the right to appeal the imposition of an administrative penalty under section 78 or costs under section 81, the Chair may prepare and file with the clerk of the Court of Queen's Bench a certificate certifying the amount that the person is required to pay under section 78 or 81, as the case may be.

(2) A certificate filed under subsection (1) with the clerk of the Court of Queen's Bench has the same force and effect as if it were a judgment of the Court of Queen's Bench for the recovery of debt

in the amount specified in the certificate together with costs of filing.

Part 8 Administration

Personnel

83(1) The Commission may

- (a) employ persons as the Commission considers necessary for the transaction of its business,
- (b) prescribe the duties, conditions of employment and remuneration of persons employed by it, and
- (c) from time to time engage the services of experts or persons having special technical or other knowledge to assist in carrying out the Commission's powers, duties and functions.

(2) The *Public Service Act* does not apply to the Commission or to the Commission's employees or persons providing services to the Commission.

Protection from action

84 No action or proceeding in respect of any act or thing done or omitted to be done or purported to be done or omitted to be done in good faith under this or any other enactment or under a decision, order or direction of the Commission may be brought against the Commission, any member or any person referred to in section 83(1).

Administration fee

85(1) In this section, "administration fee" means the amount or amounts imposed as an administration fee under this section.

(2) The Commission may, in accordance with the rules under subsection (7), impose an administration fee sufficient to pay for the Commission's estimated net expenditures associated with carrying out its powers, duties and functions for a fiscal year.

(3) In determining the estimated net expenditures under subsection (2), the Commission shall take into account any funds that may be voted by the Legislature for payment to the Commission.

(4) The administration fee may be imposed on an owner of a utility or any other person over whom the Commission has jurisdiction or any person to whom the Commission provides services.

(5) If an administration fee is imposed on an owner or person by the Commission, the owner or person shall pay the amount of the administration fee to the Commission in accordance with the rules under subsection (7).

(6) An amount paid by a person as an administration fee under this section is deemed to be a cost to that person for the purposes of the *Public Utilities Act*.

(7) The Commission may make rules

- (a) respecting the determination and calculation of an administration fee;
- (b) respecting the payment of administration fees;
- (c) respecting the owner or person or class of owner or person on whom fees may be imposed;
- (d) respecting the exemption of any owner or person or any class of owner or person from the imposition of an administration fee;
- (e) providing for the imposition and payment of penalties for the late payment of administration fees;
- (f) respecting appeals with respect to the determination or imposition of administration fees.

Interest and penalties

86(1) A person or owner who does not pay an administration fee in accordance with the Commission order imposing that administration fee at the time and in the manner set out in the order shall pay interest at the rate set by the Commission on all or any part of the administration fee unpaid from the date on which the administration fee should have been paid to the date on which it is received in full by the Commission.

(2) The Commission by order may impose on a person, in addition to any penalty payable under section 85(7)(e) and interest payable under subsection (1), a penalty of \$1000 for each day on which all or any part of an administration fee imposed on the person is not paid in accordance with the order of the Commission.

Appeal

87(1) A person or owner who is required to pay an administration fee under section 85 may appeal the administration fee on the grounds and in accordance with the rules made under section 85(7)(f), and a decision confirming or varying an administration fee is deemed to be an order of the Commission imposing the payment of an administration fee, interest or a penalty under section 85 or 86, as the case may be.

(2) Section 29 does not apply with respect to an appeal under this section.

Power to borrow

88 The Commission may borrow from time to time any amounts that are required for the defrayal of the current expenditures of the Commission on the security of the administration fees for the time being uncollected.

Guarantee and advances

89 The Lieutenant Governor in Council may authorize and empower the Minister of Finance to do either or both of the following:

- (a) to guarantee on behalf of the Government the due payment of any money borrowed pursuant to section 88, together with the interest on the money borrowed, on any terms and conditions that may be prescribed by the Lieutenant Governor in Council;
- (b) to advance to the Commission from time to time out of the General Revenue Fund any sums that the Minister of Finance considers advisable, on any security, at a rate of interest and on any terms and conditions that may be prescribed by the Lieutenant Governor in Council.

Part 9 Regulations and Rules

Regulations

- 90** The Lieutenant Governor in Council may make regulations
- (a) adding to, clarifying, limiting or restricting any of the Commission's powers, duties and functions, or regulating how they are to be exercised;
 - (b) defining any word or expression used but not defined in this Act;
 - (c) prohibiting the delegation of any powers, duties and functions of the Commission under section 8(7).

Commission rules

- 91(1)** The Commission may make rules governing any matter or person within its jurisdiction, including
- (a) the procedures and processes applicable to locating, building, constructing and operating facilities or infrastructure over which the Commission has jurisdiction,
 - (b) when and how sufficient notice is given where the Commission receives an application relating to the development of facilities or infrastructure,
 - (c) appropriate levels, amounts or other criteria that may be used to determine when abbreviated needs identification documents for transmission facility projects will be used under the *Electric Utilities Act* and associated regulations under that Act,
 - (d) the procedures and processes for establishing terms and conditions of service and rates of water utilities,
 - (e) rules of practice governing the Commission's procedure and hearings,
 - (f) any matter necessary for the administration of the system of administrative penalties under section 78,

(g) the requirements that must be met by an applicant to satisfy the Commission under section 9(3)(c) that a hearing is not necessary, and

(h) respecting the costs of an investigation under section 81.

(2) A rule may adopt or incorporate in whole or in part or with modifications documents that set out standards, practices, codes, objectives, methods or other rules of any government, organization or person, including, without limitation, any standards, practices, codes of practice, guidelines, objectives or methods developed by the Commission under section 92, as they read at a particular time, or as amended or replaced from time to time, relating to any matter in respect of which a rule may be made under this section.

(3) Where a standard, practice, code, guideline, objective, method or other rule is adopted or incorporated under this section, the Commission shall ensure that a copy of the standard, practice, code, guideline, objective, method or other rule is made available to a person on request.

(4) The Commission is not required to hold a hearing before making a rule.

(5) The *Regulations Act* does not apply to Commission rules.

Codes of practice

92 The Commission may develop standards, practices, codes of practice, guidelines, objectives or methods relating to any matter in respect of which a rule may be made under section 91.

Regulations regarding security

93(1) In this section, “terrorist activity” means terrorist activity within the meaning of the *Criminal Code* (Canada).

(2) For the purposes of addressing security in respect of terrorist activity or the threat of terrorist activity, the Commission may make regulations

(a) respecting the shutting down of a gas transmission pipeline, hydro development, power plant, transmission line or electric distribution system;

- (b) respecting security measures to be taken in respect of a gas transmission pipeline, hydro development, power plant, transmission line or electric distribution system;
- (c) respecting access to information filed with the Commission in respect of a gas transmission pipeline, hydro development, power plant, transmission line or electric distribution system.

(3) A regulation made under subsection (2) is of no force or effect unless it is approved by the Lieutenant Governor in Council.

(4) A regulation made under subsection (2)(c) prevails despite the *Freedom of Information and Protection of Privacy Act*.

Regulations

94(1) The Lieutenant Governor in Council may make regulations in respect of matters coming under this Act that the Minister considers are not provided for or are insufficiently provided for in this Act.

(2) A regulation made under subsection (1) is repealed on the earliest of the following:

- (a) the coming into force of an amendment to a statute that provides for the matter dealt with in the regulation;
- (b) the coming into force of a regulation that repeals the regulation made under subsection (1);
- (c) the expiration of 5 years from the day that the regulation made under subsection (1) comes into force.

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

(4) A regulation shall not be made under subsection (1) after the expiration of 5 years from the day that this section comes into force, but any regulation made under subsection (1) that is in force on the expiration of the 5-year period remains in force until it is repealed under subsection (2).

(5) A regulation shall not be made under subsection (1) altering the provisions of subsection (2) or extending the 5-year period provided for in subsection (4).

Part 10 Transitional Provisions, Related and Consequential Amendments, Repeal and Coming into Force

Transitional provisions

95(1) In this section,

- (a) “former Act” means
 - (i) the *Alberta Energy and Utilities Board Act*, or
 - (ii) Part 1 of the *Public Utilities Board Act*;
- (b) “Board” means the Alberta Energy and Utilities Board established under the *Alberta Energy and Utilities Board Act*.

(2) On the coming into force of this section, any approval, order, direction or other determination and any instrument made by the Board before the coming into force of this section continue to have effect according to their terms until they expire or are amended or terminated by the Commission or the Energy Resources Conservation Board under this Act or any other enactment.

(3) Any proceeding of the Board commenced but not completed before the coming into force of this section shall be completed by the Board as if the *Alberta Energy and Utilities Board Act* had not been repealed.

(4) A review or an appeal commenced on or after the day this section comes into force in respect of an order or decision of the Board under an Act or a former Act that deals with matters that on the coming into force of this section

- (a) are subject to the jurisdiction of the Commission shall be dealt with by the Commission, and

- (b) are subject to the jurisdiction of the Energy Resources Conservation Board shall be dealt with by the Energy Resources Conservation Board.

(5) On the coming into force of this section, the persons serving as members of the Board continue as members of the Board for the purposes of subsection (3), but unless otherwise appointed or reappointed do not become members of the Alberta Utilities Commission or continue as members of the Energy Resources Conservation Board.

(6) On the coming into force of this section, the following applies:

- (a) the property, assets, rights and benefits of the Board are the property, assets, rights and benefits of the Commission or the Energy Resources Conservation Board, as determined by the regulations;
- (b) the Commission or the Energy Resources Conservation Board, as determined by the regulations, is liable for the obligations and liabilities of the Board;
- (c) an existing cause of action, claim or liability to prosecution of, by or against the Board is unaffected by the coming into force of this section and may be continued by or against the Commission or the Energy Resources Conservation Board, as determined by the regulations;
- (d) a civil, criminal or administrative action or proceeding pending by or against the Board may be continued by or against the Commission or the Energy Resources Conservation Board, as determined by the regulations;
- (e) a ruling, order or judgment in favour of or against the Board may be enforced by or against the Commission or the Energy Resources Conservation Board, as determined by the regulations.

(7) The Lieutenant Governor in Council may make regulations

- (a) governing the transition of any of the powers, duties and functions previously carried out by the Board and clarifying, specifying or directing how they will be allocated between the Commission and the Energy Resources Conservation Board;

- (b) respecting the transfer of property, assets, rights and benefits of the Board to the Commission or the Energy Resources Conservation Board;
- (c) respecting the transfer of the obligations and liabilities of the Board to the Commission or the Energy Resources Conservation Board;
- (d) determining by or against which body, the Commission or the Energy Resources Conservation Board, any existing cause of action, claim or liability to prosecution of, by or against the Board shall be continued;
- (e) determining by or against which body, the Commission or the Energy Resources Conservation Board, any civil, criminal or administrative action or proceeding pending by or against the Board shall be continued;
- (f) determining in favour of or against which body, the Commission or the Energy Resources Conservation Board, any ruling, order or judgment in favour of or against the Board shall be enforced;
- (g) respecting the transition to this Act of anything under an Act or a former Act, including the interpretation of any transitional provision in this Act;
- (h) to remedy any confusion, difficulty, inconsistency or impossibility resulting from the transition to this Act from an Act or a former Act.

(8) A regulation made under subsection (7) may be made retroactive to the extent set out in the regulation.

(9) If there is a conflict between a regulation made under subsection (7) and a provision in this Part, the regulation prevails.

(10) A regulation made under subsection (7) is repealed on the earliest of

- (a) the coming into force of an amendment that adds the subject-matter of the regulation to this or any other Act,
- (b) the coming into force of a regulation that repeals the regulation made under subsection (7), and
- (c) 5 years after the regulation comes into force.

(11) The repeal of a regulation under subsection (10)(b) or (c) does not affect anything done, incurred or acquired under the authority of the regulation before the repeal of the regulation.

(12) A regulation shall not be made under subsection (7) after the expiration of 5 years from the day that this section comes into force, but any regulation made under subsection (7) that is in force on the expiration of that 5-year period remains in force until it is repealed under subsection (10).

(13) A regulation shall not be made under subsection (7) altering the provisions of subsection (10) or extending the 5-year period provided for under subsection (12).

Related and consequential amendments

96(1) The *Ambulance Services Act* is amended in section 38 by striking out “Public Utilities Board” wherever it occurs and substituting “Alberta Utilities Commission”.

(2) The *City Transportation Act* is amended in sections 27(6) and 29(2) by striking out “Public Utilities Board” and substituting “Alberta Utilities Commission”.

(3) The *Conflicts of Interest Act* is amended in Part 3 of the Schedule

(a) by adding “Alberta Utilities Commission” after “Alberta Transportation Safety Board”;

(b) by striking out “Public Utilities Board”.

(4) The *Electric Utilities Act* is amended

(a) in section 1(1)

(i) by repealing clause (e) and substituting the following:

(e) “Commission” means the Alberta Utilities Commission established by the *Alberta Utilities Commission Act*;

(ii) by repealing clause (k);

(iii) by adding the following after clause (l):

Explanatory Notes

96(1) Amends chapter A-39 of the Revised Statutes of Alberta 2000. References to Public Utilities Board replaced with references to Alberta Utilities Commission.

(2) Amends chapter C-14 of the Revised Statutes of Alberta 2000. References to Public Utilities Board replaced with references to Alberta Utilities Commission.

(3) Amends chapter C-23 of the Revised Statutes of Alberta 2000. Part 3 of the Schedule, Other Disqualifying Offices, amended by adding Alberta Utilities Commission and deleting Public Utilities Board.

(4) Amends chapter E-5.1 of the Statutes of Alberta, 2003. Adds sections 20.1 to 21.1 dealing with ISO rules; section 24.1 Load settlement rules; section 142.1 Ministerial regulations. Requirement re metering added to section 39. Part 3, Market Surveillance Administrator, repealed as the MSA provisions form part of the new Alberta Utilities Commission Act. References to the Alberta Energy and Utilities Board replaced with references to the Alberta Utilities Commission. Sections 1, 5, 13, 17, 20, 22 to 24, 25, 26, 34(1) and (3), 91, 103(6) and (7), 105(1)(e), 107, 122(1), 126, 128 to 131, 132(2), 144 and 145 presently read in part:

1(1) In this Act,

(l.1) “electric distribution service” means the service required to transport electricity by means of an electric distribution system

(i) to customers, or

(ii) from distributed generation to the interconnected electric system,

and includes any services the owner of the electric distribution system is required to provide by the Commission or is required to provide under this Act or the regulations, but does not include the provision of electricity services to eligible customers under a regulated rate tariff;

(iv) by repealing clauses (ee) to (gg) and substituting the following:

(ee) “market participant” means

(i) any person that supplies, generates, transmits, distributes, trades, exchanges, purchases or sells electricity, electric energy, electricity services or ancillary services, or

(ii) any broker, brokerage or forward exchange that trades or facilitates the trading of electricity, electric energy, electricity services or ancillary services;

(ff) “Market Surveillance Administrator” means the corporation continued by section 47 of the *Alberta Utilities Commission Act*;

(gg) “metering” means the purchase, installation, operation and reading of a meter that measures and records the amount of electricity that flows through a particular point;

(v) by repealing clause (uu) and substituting the following:

- (e) *“Board” means the Alberta Energy and Utilities Board established by the Alberta Energy and Utilities Board Act;*
- (k) *“distribution access service” means the service required to transport electricity by means of an electric distribution system*
 - (i) *to customers, or*
 - (ii) *from distributed generation to the interconnected electric system,*

and includes any services the owner of the electric distribution system is required to provide by the Board or is required to provide under this Act or the regulations, but does not include the provision of electricity services to eligible customers under a regulated rate tariff;
- (ee) *“market participant” means any person that supplies, generates, transmits, distributes, trades, exchanges, purchases or sells electricity, electric energy, electricity services or ancillary services;*
- (ff) *“Market Surveillance Administrator” means the corporation established by section 42;*
- (gg) *“metering” means the purchase, installation, operation and reading of a meter that measures and records the amount of electricity consumed by a customer;*
- (uu) *“retailer” means a person who sells or provides retail electricity services;*
- (ddd) *“tribunal” means a tribunal appointed under section 61.*

5 The purposes of this Act are

- (a) *to provide an efficient Alberta electric industry structure including independent, separate corporations to carry out the responsibilities of the Independent System Operator, the Market Surveillance Administrator and the Balancing Pool, and to set out the powers and duties of those corporations;*

13 If the Independent System Operator establishes a committee to consult with market participants or other persons, it must

- (a) *set up a process for appointing individuals to the committee,*
- (b) *describe the committee’s mandate, and*
- (c) *specify the reasonable remuneration and expenses members of the committee may receive for committee work.*

17 The Independent System Operator has the following duties:

(uu) “retailer” means a person who sells or provides retail electricity services and includes an affiliated retailer;

(vi) by repealing clause (ddd);

(b) in section 5(a) by striking out “, the Market Surveillance Administrator”;

(c) by repealing section 13;

(d) by repealing section 17(l) and substituting the following:

(l) to administer load settlement;

(l.1) to monitor the compliance of market participants with rules made under sections 19, 20 and 24.1;

(e) in section 20

(i) by repealing subsection (1)(h);

(ii) by repealing subsections (2) and (3);

(f) by adding the following after section 20:

Application

20.1 Sections 20.2 to 20.5 do not apply to an ISO rule

(a) that was made before the coming into force of those sections, or

(b) that takes effect in accordance with section 20.6.

Filing of ISO rules

20.2(1) The Independent System Operator must file with the Commission an ISO rule made under section 19 or 20.

(2) The Commission must publish notice of the filing of an ISO rule under subsection (1) not later than 5 days after the day of filing.

(3) Subject to subsection (4), a notice under subsection (2) must include a copy of the ISO rule or set out where a copy may be obtained.

(l) to regulate and administer load settlement;

20(1) The Independent System Operator may make rules respecting

(h) load settlement, including

(i) the conduct of load settlement by market participants;

(ii) the establishment of processes, procedures, standards, reports and controls required to determine the hourly allocation of electric energy to sites and to customers;

(iii) the determination, collection and storage of site, customer, metering and other data in order to provide necessary measurement data;

(iv) the development and use of customer load profiles to determine the hourly allocation of electric energy to sites that do not have interval meters;

(v) the transfer of data among market participants;

(vi) approval of professional and other costs relating to the development and implementation of the rules and by whom the costs are to be paid;

(vii) incentives for efficient performance of load settlement;

(2) The Independent System Operator must make its rules available to the public except for those rules that the Independent System Operator considers not to be in the public interest to disclose publicly, in which case an explanation for the non-disclosure of those rules must be given.

(3) A market participant must comply with ISO rules.

22(1) If the Independent System Operator is satisfied that a market participant has contravened an ISO rule or failed to pay an ISO fee, the Independent System Operator may, by order, do one or more of the following:

(a) impose an administrative penalty on the market participant of not more than \$100 000 a day for each day on which a contravention occurs or continues;

(b) deny, suspend, restrict or terminate the right of a market participant to exchange electric energy through the power pool or to participate in any other market operated by the Independent System Operator;

(c) impose another sanction that the Independent System Operator considers appropriate;

(d) order compliance with the ISO rule or payment of an ISO fee.

(4) If the Commission is satisfied on information provided by the Independent System Operator that it would not be in the public interest for an ISO rule to be available to the public, the notice under subsection (2) must contain a summary of the ISO rule and explain why a copy of the ISO rule is not included.

Effective date of ISO rules

20.3 Except as otherwise provided by section 20.6,

- (a) if no notice of objection is filed under section 20.4, the ISO rule takes effect on the later of the day specified in the ISO rule and the 10th day after the day on which notice of the ISO rule is published, or
- (b) if a notice of objection is filed under section 20.4,
 - (i) where the ISO rule is confirmed, the ISO rule takes effect on the latest of
 - (A) the day on which an order is made confirming the ISO rule,
 - (B) the day specified in the ISO rule, and
 - (C) the day otherwise ordered by the Commission,
 - or
 - (ii) where the ISO rule is changed pursuant to an order under section 20.5(1)(c), the ISO rule takes effect in accordance with section 20.5(4).

Objection to ISO rule

20.4(1) A market participant may object to an ISO rule that is filed under section 20.2 on one or more of the following grounds:

- (a) that the Independent System Operator, in making the ISO rule, did not comply with Commission rules made under section 20.9;
- (b) that the ISO rule is technically deficient;
- (c) that the ISO rule does not support the fair, efficient and openly competitive operation of the market;

(2) When making an order, the Independent System Operator may take into consideration any failure or refusal of a market participant to co-operate with the Independent System Operator.

(3) A market participant who is the subject of an ISO order may make a complaint to the Board under section 25.

(4) An administrative penalty imposed by the Independent System Operator must be paid to the Balancing Pool.

(5) The Independent System Operator must establish and maintain a current schedule of administrative penalties that it may impose and make the schedule available to the public.

23(1) Subject to the right to make a complaint under section 25, if a person fails to pay an administrative penalty in accordance with the order imposing it, the Independent System Operator 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 Independent System Operator as if it were a judgment or order of the Court.

(2) Subject to the right to make a complaint under section 25, the Independent System Operator may apply to the Court of Queen's Bench to enforce an ISO order, other than an order to pay an administrative penalty, on giving notice of the application to the person against whom enforcement is sought, in accordance with the Alberta Rules of Court.

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

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

(a) the order is the subject of complaint under section 25 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.

24(1) A person who fails to comply with an ISO order 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.

(2) In addition to a fine under this section, the court may order the market participant to pay to the Balancing Pool any administrative penalty imposed on it by the ISO order.

25(1) Any person may make a written complaint to the Board about

(a) an ISO rule,

(d) that the ISO rule is not in the public interest.

(2) A notice of objection must be filed with the Commission within 10 days after publication of the notice of the filing of the ISO rule.

(3) The market participant filing the notice of objection has the onus of proving

(a) that the Independent System Operator, in making the ISO rule, did not comply with Commission rules made under section 20.9,

(b) that the ISO rule is technically deficient,

(c) that the ISO rule does not support the fair, efficient and openly competitive operation of the market, or

(d) that the ISO rule is not in the public interest.

Commission decision

20.5(1) The Commission may, after hearing an objection, by order

(a) confirm the ISO rule,

(b) disallow the ISO rule, or

(c) direct the Independent System Operator to change the ISO rule or a provision of the ISO rule.

(2) The Independent System Operator must file an ISO rule that is changed pursuant to an order under subsection (1)(c) with the Commission.

(3) The Commission must publish notice of the filing of an ISO rule under subsection (2) as soon as possible and not later than 5 days after the day of filing.

(4) An ISO rule that is filed under subsection (2) comes into effect on the latest of

(a) the day on which it is filed,

(b) the day specified in the ISO rule, and

(c) the day otherwise ordered by the Commission.

(b) an ISO fee, or

(c) an ISO order.

(2) A complaint about an ISO fee or an ISO order must be made within 60 days of the date the market participant receives notice of the fee or order.

(3) Before dealing with any complaint, the Board may require the person making the complaint and the Independent System Operator to attempt to negotiate a settlement of the matter or participate in a dispute resolution process selected by the Board.

(4) The Board may, by giving written notice with reasons to the person making the complaint, decline to investigate a matter or hold a hearing, or terminate an investigation or hearing, if the Board considers

(a) the complaint is frivolous, vexatious, trivial or otherwise does not warrant investigation or a hearing;

(b) the complaint or the substance of it has been referred to, should be referred to, or is the subject of an investigation by, the Market Surveillance Administrator;

(c) the complaint or the substance of it has been investigated by the Market Surveillance Administrator, has been the subject of a tribunal hearing or has been the subject of a tribunal order;

(d) the subject-matter of the complaint is under the jurisdiction of another authority.

(5) Unless the Board otherwise orders, a complaint under this section does not relieve the person making the complaint from the obligation

(a) to pay an ISO fee pending a decision of the Board, or

(b) to comply with an ISO order or ISO rule pending a decision of the Board.

(6) If the Board decides to hear the complaint, the Board may, by written decision giving reasons,

(a) determine the justness and reasonableness of

(i) an ISO fee, or

(ii) an ISO order

and may confirm, change or revoke the fee or order;

(b) order the Independent System Operator to revoke or change a provision of an ISO rule that, in the Board's opinion, is

Expedited ISO rule

20.6(1) If, in the opinion of the Independent System Operator, a matter that is addressed in an ISO rule is urgent or there are other sufficient reasons that require that the ISO rule take effect expeditiously, the Independent System Operator may specify in the ISO rule that it takes effect in accordance with this section.

(2) The Independent System Operator must file an ISO rule referred to in subsection (1) with the Commission.

(3) An ISO rule that is filed under subsection (2) takes effect on the later of the day on which it is filed and the day specified in the ISO rule.

(4) The Commission must publish notice of an ISO rule that is filed under subsection (2) as soon as possible and not later than 5 days after the day of filing.

Availability of ISO rules

20.7(1) Subject to subsection (2), the Independent System Operator must make available to the public an ISO rule that is in effect.

(2) If the Commission is satisfied on information provided by the Independent System Operator that it would not be in the public interest for an ISO rule to be available to the public, the Independent System Operator must make available to the public a summary of the ISO rule that contains an explanation as to why the ISO rule is not being made available.

Duty to comply with ISO rules

20.8 A market participant must comply with an ISO rule that is in effect.

Commission rules

20.9 The Commission may make rules governing the procedures and processes that the Independent System Operator may use to develop ISO rules and respecting the filing of ISO rules.

(g) by adding the following after section 21:**Contravention of ISO rule**

21.1 Except as otherwise provided by the regulations, if the Independent System Operator suspects that a market

unjust, unreasonable, unduly preferential, arbitrarily or unjustly discriminatory or inconsistent with or in contravention of this Act or the regulations;

- (c) dismiss the complaint;*
- (d) direct the Independent System Operator to reimburse a market participant any fee paid to the Independent System Operator;*
- (e) direct the Balancing Pool to reimburse a market participant any administrative penalty paid to the Balancing Pool in accordance with an ISO order.*

26(1) Any person may make a written complaint to the Board about the conduct of the Independent System Operator.

(2) The Board must refuse the complaint, giving reasons for the refusal, if the Board is satisfied that

- (a) the substance of the complaint has been or should be referred to the Market Surveillance Administrator for investigation,*
- (b) the complaint deals with a matter the substance of which is before or has been dealt with by a tribunal, or*
- (c) the complaint is frivolous, vexatious, trivial or otherwise does not warrant investigation or a hearing.*

(3) The person making the complaint and the Independent System Operator must, if the Board so requires, participate in a dispute resolution process selected by the Board, which may include arbitration under the Arbitration Act.

34(1) When the Independent System Operator determines that an expansion or enhancement of the capability of the transmission system is required to meet the needs of market participants, the Independent System Operator must prepare and submit to the Board for approval a needs identification document that

- (a) describes the constraint or condition affecting the operation or performance of the transmission system and indicates the means by which or the manner in which the constraint or condition could be alleviated,*
- (b) describes a need for improved efficiency of the transmission system, including means to reduce losses on the interconnected electric system, or*
- (c) describes a need to respond to requests for system access service.*

(3) The Board may

- (a) approve the needs identification document,*

participant has contravened an ISO rule, the Independent System Operator must refer the matter to the Market Surveillance Administrator.

(h) by repealing sections 22 to 24 and substituting the following:

Failure to pay ISO fee

22(1) If a market participant fails to pay an ISO fee, the Independent System Operator may refer the matter to the Commission.

(2) If the Commission is satisfied that a market participant has failed to pay an ISO fee, the Commission may order the market participant to pay the ISO fee and may impose an administrative penalty on the market participant under section 78 of the *Alberta Utilities Commission Act*.

(i) by adding the following after section 24:

Load settlement rules

24.1(1) The Commission may make rules respecting load settlement, including rules respecting

- (a) the conduct of load settlement by market participants,
- (b) the establishment of processes, procedures, standards, reports and controls required to determine the hourly allocation of electric energy to sites and to customers,
- (c) the determination, collection and storage of site, metering and other data in order to provide necessary measurement data,
- (d) the development and use of customer load profiles to determine the hourly allocation of electric energy to sites that do not have interval meters,
- (e) the transfer of data among market participants,
- (f) the payment to the Commission of professional and other costs relating to the development and implementation of the rules and by whom the costs are to be paid,

- (b) *refer the needs identification document back to the Independent System Operator with directions or suggestions for changes or additions, or*
- (c) *refuse to approve the needs identification document.*

91(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.*

- (g) incentives for efficient performance of load settlement, and
 - (h) any other matter the Commission considers necessary and advisable relating to load settlement.
- (2)** The Independent System Operator must administer load settlement in accordance with the rules made under subsection (1).
- (3)** A market participant must comply with rules made by the Commission under subsection (1).
- (4)** On referral by the Independent System Operator, on application or on its own initiative, the Commission may determine whether a market participant is complying with the rules respecting load settlement.
- (5)** If the Commission is of the opinion that a market participant has failed or is failing to comply with the rules respecting load settlement, the Commission may by order do all or any of the following:
- (a) direct the market participant to comply with the rules or to take any action to improve load settlement that the Commission considers just and reasonable;
 - (b) direct the market participant to pay or provide a credit in an amount specified by the Commission to a person determined by the Commission who has suffered loss or damage resulting from the failure of the market participant to comply with the rules to compensate that person;
 - (c) prohibit the market participant from engaging in any activity or conduct that the Commission considers to be detrimental to load settlement;
 - (d) impose an administrative penalty under section 78 of the *Alberta Utilities Commission Act*.
- (j) in section 25**
- (i) by repealing subsections (1), (2) and (3) and substituting the following:**

(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 Independent System Operator through an approved budget or approved amended budget under section 47.

103(6) A regulated rate tariff of an owner of an electric distribution system

- (a) that is a municipality or a subsidiary of a municipality that has an affiliated retailer that provides retail electricity services outside the service area of the municipality, or*
- (b) that is a rural electrification association that has an affiliated retailer that provides retail electricity services to customers who are not members of a rural electrification association*

takes effect as of January 1, 2004.

(7) The charge for electric energy set out in the regulated rate tariff effective

- (a) as of January 1, 2004 for eligible customers, other than rate classification customers, and*
- (b) as of January 1, 2006 for eligible customers, including rate classification customers,*

must be determined in accordance with the regulations made by the Minister under section 108.

105(1) The owner of an electric distribution system has the following duties:

- (e) to install and remove meters and perform metering, including verifying meter readings and verifying accuracy of meters;*

Complaints to the Commission

25(1) A market participant may make a written complaint to the Commission about

- (a) an ISO rule that is in effect, or
- (b) an ISO fee.

(2) A complaint about an ISO fee must be made within 60 days after the day on which the market participant receives notice of the fee.

(3) A complaint about an ISO rule may be made on one or more of the following grounds:

- (a) that the ISO rule is technically deficient;
- (b) that the ISO rule does not support the fair, efficient and openly competitive operation of the market;
- (c) that the ISO rule is not in the public interest.

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

(4) The Commission may decline to hold a hearing or other proceeding if, in the opinion of the Commission,

- (a) the complaint is frivolous, vexatious, trivial or otherwise does not warrant a hearing or other proceeding, or
- (b) the complaint or the substance of it has been referred to, should be referred to, or is the subject of investigation by, the Market Surveillance Administrator.

(4.1) The market participant filing a complaint has the onus of proving

- (a) that the ISO rule is technically deficient,
- (b) that the ISO rule does not support the fair, efficient and openly competitive operation of the market, or

107(1) A distribution tariff of the owner of an electric distribution system that is a municipality or a subsidiary of a municipality

- (a) that has an affiliated retailer that provides retail electricity services outside the service area of the municipality, or*
- (b) that provides distribution access service outside the service area of the municipality either on its own behalf or on behalf of another owner,*

does not cease to have effect on the coming into force of this Part, but ceases to have effect on December 31, 2003, unless the tariff expires earlier.

(2) A regulated rate tariff of the owner of an electric distribution system

- (a) that is a municipality or a subsidiary of a municipality that has an affiliated retailer that provides retail electricity services outside the service area of the municipality, or*
- (b) that is a rural electrification association that has an affiliated retailer that provides retail electricity services to customers who are not members of a rural electrification association,*

does not cease to have effect on the coming into force of this Part, but ceases to have effect on December 31, 2003, unless the tariff expires earlier.

(3) If a distribution tariff referred to in subsection (1) or a regulated rate tariff referred to in subsection (2) expires before December 31, 2003, the Electric Utilities Act, RSA 2000 cE-5, continues to apply in respect of that tariff until December 31, 2003, as if that Act had not been repealed.

122(1) When considering a tariff application, the Board must have regard for the principle that a tariff approved by it must provide the owner of an electric utility with a reasonable opportunity to recover

- (a) the costs and expenses associated with capital related to the owner's investment in the electric utility, including*
 - (i) depreciation,*
 - (ii) interest paid on money borrowed for the purpose of the investment,*
 - (iii) any return required to be paid to preferred shareholders of the electric utility relating to the investment,*
 - (iv) a fair return on the equity of shareholders of the electric utility as it relates to the investment, and*
 - (v) taxes associated with the investment,*

(c) that the ISO rule is not in the public interest.

(4.2) The Commission must decline to hold a hearing or other proceeding if, in the opinion of the Commission, the complaint or the substance of it relates to the Independent System Operator's compliance with the Commission rules made under section 20.9 in making the ISO rule.

(iii) by repealing subsection (6) and substituting the following:

(6) The Commission may, after hearing a complaint, by order,

- (a) determine the justness and reasonableness of the ISO fee and confirm, change or revoke the fee,
- (b) direct the Independent System Operator to reimburse a market participant any fee paid to the Independent System Operator,
- (c) confirm the ISO rule,
- (d) disallow the ISO rule, or
- (e) direct the Independent System Operator to change the ISO rule or a provision of the ISO rule.

(7) The Independent System Operator must file with the Commission an ISO rule that is changed pursuant to an order under subsection (6)(e).

(8) The Commission must publish notice of the filing of an ISO rule under subsection (7) as soon as possible and not later than 5 days after the day of filing.

(9) A change to an ISO rule filed under subsection (7) comes into effect on the latest of

- (a) the day on which it is filed,
- (b) the day specified in the ISO rule, and
- (c) the day otherwise ordered by the Commission.

if the costs and expenses are prudent and if, in the Board's opinion, they provide an appropriate composition of debt and equity for the investment,

- (b) other prudent costs and expenses associated with isolated generating units, transmission, exchange or distribution of electricity or associated with the Independent System Operator if, in the Board's opinion, they are applicable to the electric utility,*
- (c) amounts that the owner is required to pay under this Act or the regulations,*
- (d) the costs and expenses applicable to the electric utility that arise out of obligations incurred before the coming into force of this section and that were approved by the Public Utilities Board, the Alberta Energy and Utilities Board or other utilities' regulatory authorities if, in the Board's opinion, the costs and expenses continue to be reasonable and prudently incurred,*
- (e) its prudent costs and expenses of complying with the ISO rules respecting load settlement,*
- (f) its prudent costs and expenses respecting the management of legal liability,*
- (g) the costs and expenses associated with financial arrangements to manage financial risk associated with the pool price if the arrangements are, in the Board's opinion, prudently made, and*
- (h) any other prudent costs and expenses that the Board considers appropriate, including a fair allocation of the owner's costs and expenses that relate to any or all of the owner's electric utilities.*

126(1) Unless section 26 of the Alberta Energy and Utilities Board Act applies, no order of the Board approving a tariff may be reviewed, rescinded or varied during the period in which the tariff is intended to have effect, except in accordance with this section.

(2) Any person affected by an order approving a tariff may ask the Board to review the order

- (a) if the terms or conditions provided by the tariff for discontinuing the rates have been met and the order provides for a review under this section in those circumstances,*
- (b) if the owner of the electric utility or the Independent System Operator has breached a term or condition of the tariff in a material manner,*

(k) by repealing section 26 and substituting the following:

Complaints about ISO

26(1) Any person may make a written complaint to the Commission about the conduct of the Independent System Operator.

(2) The Commission must dismiss the complaint, giving reasons for the dismissal, if the Commission is satisfied that

- (a) the substance of the complaint has been or should be referred to the Market Surveillance Administrator for investigation,
- (b) the complaint relates to a matter the substance of which is before or has been dealt with by the Commission or any other body, or
- (c) the complaint is frivolous, vexatious or trivial or otherwise does not warrant an investigation or a hearing.

(3) The Commission may, in considering a complaint, do one or more of the following:

- (a) dismiss all or part of the complaint;
- (b) direct the Independent System Operator to change its conduct in relation to a matter that is the subject of the complaint;
- (c) direct the Independent System Operator to refrain from the conduct that is the subject of the complaint.

(4) A decision of the Commission under subsection (2) or (3) is final and may not be appealed under section 29 of the *Alberta Utilities Commission Act*.

- (l) in section 34(1) by adding “or may be” before “required”;**
- (m) in section 34(3) by adding “, subject to the regulations,” after “may”;**
- (n) in section 39(3) by adding the following after clause (c):**

- (c) *if, since the date of the order, circumstances have changed in a substantial and unforeseen manner that renders the continuation of the tariff unjust and unreasonable, or*
- (d) *if, in the Board's opinion, the order contains an error of fact or law, and if the request for a review on that ground is filed with the Board not later than 90 days after the making of the order.*

(3) Sections 46(1), 47, 64, 85(1) and 87 of the Public Utilities Board Act do not apply to the review of an order by the Board under subsection (2).

128(1) The Board may make rules respecting funding for the purpose of assisting any person

- (a) *to apply or become an intervenor in a tariff application or at a proceeding under section 126,*
- (b) *to make a complaint or become an intervenor at the hearing of a complaint under this Part, and*
- (c) *to become a party to an issue for the purpose of negotiating the settlement of an issue.*

(2) A rule under subsection (1) is in addition to and not in substitution for any other jurisdiction the Board has to provide funding and may provide for

- (a) *the awarding of funding and the giving of advance funding,*
- (b) *clarification of who is to pay the funding and to whom it is to be paid, and*
- (c) *the review of any funding awarded.*

129(1) The Board may make rules respecting service quality standards for each electric utility including all or any of the following:

- (a) *the standard of service to be maintained and how the standard is to be measured;*
- (b) *service outages;*
- (c) *upgrades required to maintain and improve distribution facilities;*
- (d) *the regular or periodic maintenance of electricity utilities and repairs;*
- (e) *customer care and call centre services to be provided for customers;*
- (f) *the billing and billing services to be provided to customers;*

- (c.1) install and remove meters and perform metering, including verifying meter readings and verifying accuracy of meters that are directly connected to the owner's transmission facility;
- (o) by repealing Part 3;**
- (p) by repealing section 91;**
- (q) by repealing section 103(6) and (7) and substituting the following:**
 - (7) The charge for electric energy set out in the regulated rate tariff must be determined in accordance with the regulations made by the Minister under section 108.
- (r) in section 105(1)**
 - (i) by repealing clause (e) and substituting the following:**
 - (e) to install and remove meters and perform metering, including verifying meter readings and verifying accuracy of meters that are directly connected to the owner's distribution system;
 - (ii) by adding the following after clause (m):**
 - (n) if the owner is not an electric utility, to comply with rules respecting service standards made by the Commission under section 129(1) relating to
 - (i) billing and billing services to be provided to customers, and
 - (ii) the process, procedures and standards for transfer of data relating to distribution tariffs
 as if the owner were an electric utility.
- (s) by repealing section 107;**
- (t) in section 122(1)**

(g) any matter related to public safety.

(2) On application or on its own initiative, the Board may investigate to determine whether the owner of an electric utility is meeting the rules respecting service quality standards.

(3) If the Board is of the opinion that the owner of an electric utility has failed or is failing to meet the rules respecting service quality standards, the Board may, in addition to exercising its authority under section 145, by order do all or any of the following:

(a) direct the owner to take any action to improve services that the Board considers just and reasonable;

(b) direct the owner to provide the customer with a credit, of an amount specified by the Board, to compensate the customer for the owner's failure to meet the rules respecting service quality standards;

(c) prohibit the owner from engaging in any activity or conduct that the Board considers to be detrimental to customer service;

(d) impose an administrative penalty, to be paid to the Balancing Pool, of

(i) not more than \$100 000 a day for each day that a service quality standard rule is not met or complied with, or

(ii) not more than \$500 000 for each contravention of a rule.

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

130(1) Subject to the right to appeal an administrative penalty, if a person fails to pay an administrative penalty in accordance with the order imposing it, the Board may file a copy of the order with the clerk of the Court of Queen's Bench and, on being filed, the order has the same force and effect and may be enforced by the Board as if it were a judgment or order of the Court.

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

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

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

(a) the order is the subject of an appeal under the Alberta Energy and Utilities Board Act,

- (i) **in clauses (a), (b), (d) and (g) by striking out “Board’s opinion” and substituting “Commission’s opinion”;**
- (ii) **in clause (e) by striking out “ISO” and substituting “Commission”;**
- (u) **by repealing section 126;**
- (v) **by repealing section 128;**
- (w) **in section 129**
 - (i) **in subsection (1)**
 - (A) **by striking out “service quality standards” and substituting “service standards”;**
 - (B) **by adding the following after clause (g):**
 - (h) the process, procedures and standards for transfer of data relating to distribution tariffs;
 - (i) the payment to the Commission of professional and other costs relating to the development, implementation and administration of the rules and by whom the costs are to be paid;
 - (j) roles, responsibilities and standards of accuracy with respect to metering and metering services.
 - (ii) **in subsection (2) by striking out “meeting the rules respecting service quality standards” and substituting “complying with the rules respecting service standards”;**
 - (iii) **in subsection (3)**
 - (A) **by striking out “meet” wherever it occurs and substituting “comply with”;**
 - (B) **by striking out “, in addition to exercising its authority under section 145,”;**

(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.

131(1) A person who fails to comply with a Board order under section 129 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.

(2) In addition to a fine under this section, the court may order the market participant to pay to the Balancing Pool any administrative penalty imposed on it by the Board order.

132(2) Before recognizing or establishing rules, practices and procedures that affect the Independent System Operator or the Market Surveillance Administrator, the Board must consult with those corporations.

144 A person who is ordered to pay an administrative penalty under section 22, 67 or 129 or under a regulation made under section 142(1)(f) 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.

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

(C) by repealing clause (d) and substituting the following:

(d) impose an administrative penalty under section 78 of the *Alberta Utilities Commission Act*.

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

(4) Subsections (2) and (3) apply in respect of an owner of an electric distribution system that is required, by section 105(1)(n), to comply with rules made under subsection (1)(f) and (h).

(x) by repealing sections 130 and 131;

(y) by repealing section 132(2) and substituting the following:

(2) Before recognizing or establishing rules, practices and procedures that affect the Independent System Operator, the Commission must consult with that corporation.

(z) by adding the following after section 142:

Ministerial regulations

142.1 The Minister may make regulations respecting the definition of roles and responsibilities and establishment of rules for procedures and equipment, including testing and audit procedures and equipment and service standards, with respect to metering.

(aa) by repealing section 144;

(bb) by repealing section 145;

(cc) except in sections 122(1)(d), 155, 156 and 161, by striking out “Board” wherever it occurs and substituting “Commission”;

(dd) in sections 156 and 161 by striking out “the Board” wherever it occurs and substituting “the Alberta Energy and Utilities Board”;

(5) Amends chapter E-10 of the Revised Statutes of Alberta 2000. Adds section 5.1 Chief Executive; section 49 Rules of practice; section 50 Regulations regarding security; section 51 Lieutenant Governor in Council regulations. Sections 5, 6, 7(3) and (4), 8, 13(1) and (2), 14, 15(1), 17, 27 and 43 presently read:

5(1) The Board shall consist of not more than 7 members appointed by the Lieutenant Governor in Council, one of whom shall be designated as chair, not more than 3 of whom may be designated as vice-chairs and the remainder of whom shall be designated as Board members.

(2) In the event of any vacancy occurring in the membership of the Board, the Lieutenant Governor in Council may appoint a member and, in case the office of chair or a vice-chair becomes vacant, the Lieutenant Governor in Council may designate any member to fill the vacancy.

(3) Each of the members of the Board holds office during good behaviour for a term of 5 years from the date of that member's appointment and afterwards during the pleasure of the Lieutenant Governor in Council.

(4) Notwithstanding anything in this section, any member of the Board may be removed from office by the Lieutenant Governor in Council at any time during the 5-year term referred to in subsection (3) on the address of the Legislative Assembly.

(5) Each member of the Board shall receive remuneration as fixed by the Lieutenant Governor in Council and the remuneration shall be paid by the Board.

- (ee) in the following provisions by striking out “distribution access service” wherever it occurs and substituting “electric distribution service”:

section 1(1)(l), (q) and (4);
section 100;
section 101;
section 102;
section 105;
section 107;
section 109;
section 111.

(5) The *Energy Resources Conservation Act* is amended

(a) in section 5

(i) in subsection (1)

(A) by striking out “7” and substituting “9”;

(B) by striking out “3” and substituting “2”;

(ii) by repealing subsection (5) and substituting the following:

(5) The Lieutenant Governor in Council shall determine the remuneration of the members of the Board, which is to be paid by the Board.

(6) The Lieutenant Governor in Council may delegate to the Minister all or any of the Lieutenant Governor in Council’s powers to determine the remuneration of all or any of the members.

(b) by adding the following after section 5:

Chief Executive

5.1(1) The Board shall appoint a Chief Executive and shall determine the Chief Executive’s powers, duties and functions.

(2) The Board shall set the remuneration to be paid to the Chief Executive.

(c) by repealing section 6 and substituting the following:

6(1) No member of the Board appointed under section 5 shall have a monetary interest of any description, directly or indirectly, in any oil, gas, oil sands, coal or hydro energy property or in any business engaged in any phase of the oil, gas, crude bitumen, coal or electric energy industries or engaged in any phase of the business of generation, transmission, distribution or sale of energy in any form.

(2) No person continuously employed by the Board shall, directly or indirectly, have a monetary interest of a kind described in subsection (1) other than

(a) shares of a corporation that are regularly quoted and dealt in on a recognized stock exchange, and

(b) any shares, bonds, debentures, debenture stock or other securities of a corporation that are exempted from the operation of this subsection by order of the Lieutenant Governor in Council.

7(3) An acting member has, during the period, under the circumstances or for the purpose for which the acting member is named an acting member, all the powers of and may perform all duties of a member of the Board.

(4) Section 5(1) does not prevent the enlargement of the Board to more than 7 members by the naming of one or more acting members in accordance with this section.

8(1) The chair may designate any 3 or more members of the Board to sit as a division of the Board and may direct that division to conduct any hearing, inquiry or investigation that the Board itself could conduct under this or any other Act.

(2) Two members constitute a quorum at any hearing, inquiry, investigation or other meeting held by a division of the Board.

(3) Any decision or other action made or taken at a hearing, inquiry, investigation or other meeting held by a division of the Board at which a quorum is present is the decision or action of the Board and binds all members of the Board.

(4) A division of the Board may exercise and perform all the jurisdiction, powers and duties of the Board under this or any other Act with respect to the hearing, inquiry or investigation it is directed to conduct and for that purpose any reference in this or any other Act to the Board is deemed to be also a reference to a division of the Board.

(5) The chair may designate a member of a division of the Board to preside at any sitting of the division at which the chair is not present.

(6) A division of the Board shall conduct a hearing, inquiry, investigation or other meeting separately from those of any other

Duty of care

6(1) Every member, in exercising powers and in discharging functions and duties,

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

(2) The Board shall establish and maintain policies and procedures addressing the identification, disclosure and resolution of matters involving conflict of interest of members of the Board and senior officers and employees of the Board.

(d) by repealing section 7(3) and (4) and substituting the following:

(3) An acting member has, during the period, under the circumstances or for the purpose for which the acting member is named an acting member, all the powers, duties, rights, protections and obligations of a member of the Board and shall receive the remuneration determined by the chair.

(4) The Board may be enlarged to more than the number of members referred to in section 5(1) by the naming of one or more acting members in accordance with this section.

(e) in section 8

(i) in subsection (1) by striking out “3 or more” and substituting “one or more”;

(ii) in subsection (2) by striking out “Two” and substituting “A majority of the”;

(iii) by adding the following after subsection (6):

(7) If in the opinion of the chair a member of a division is not properly carrying out his or her duties, the chair may remove the member from sitting in a division.

division of the Board being conducted at the same time but may not sit at any time during which the Board itself is sitting.

13(1) The chair

- (a) is the executive officer of the Board, and*
- (b) has full power to act for, and in the name of, the Board in the execution, performance and carrying out of any act, matter or thing that is*

within the power of the Board, subject only to any express directions or decisions given or made by a resolution of the Board.

(2) Subject to section 14, the chair, a vice-chair or a Board member shall sign all orders, directions or other documents issued by authority of the Board.

14 The Board may delegate any of the powers or duties conferred or imposed on it by this Act or by any other Act to designated officials of the Board, unless this or that Act prohibits the delegation.

15(1) An order, direction or other document purporting to be issued by authority of the Board, when signed by the chair, a vice-chair or Board member, is admissible in evidence to prove the contents of it without any proof of the signature or of the appointment of or the authority of the chair, vice-chair or Board member, as the case may be, to sign the document.

17 The Board may

- (a) employ technical or professional persons and other officers, clerks or employees as the Board considers necessary for the proper and convenient transaction of its business,*
- (b) prescribe the duties, conditions of employment and remuneration of persons employed by it,*
- (c) appoint from time to time persons having special technical or other knowledge of any matter before the Board to inquire into and report to the Board in respect of the matter in question, any of which persons may or may not be employees of the Board, and*
- (d) appoint examiners, from its staff or otherwise, for the purpose of conducting hearings, inquiries and other investigations and reporting on them to the Board.*

27(1) The Board may make rules of practice governing its procedure and hearings pursuant to any Act that the Board administers, but the rules shall not be inconsistent with that Act.

(2) The Board in the conduct of its hearings is not bound by the rules of law concerning evidence applicable to judicial proceedings.

- (f) **by repealing section 13(1) and (2) and substituting the following:**

Chair and vice-chair

13(1) The chair has the power to act for, and in the name of, the Board in the execution, performance and carrying out of any act, matter or thing that is within the power of the Board, subject only to any express directions or decisions given or made by a resolution of the Board.

- (g) **by repealing section 14 and substituting the following:**

Delegation of powers

14 The Board may delegate any of the powers, duties and functions conferred or imposed on it under this Act or any other enactment to any member or any other person unless the regulations under section 51 prohibit the delegation.

- (h) **by repealing section 15(1);**

- (i) **by renumbering section 17 as section 17(1) and by adding the following after subsection (1):**

(2) The *Public Service Act* does not apply to the Board or to the Board's employees or persons providing services to the Board.

- (j) **by repealing section 27 and substituting the following:**

Rules of evidence

27 The Board in the conduct of its hearings is not bound by the rules of law concerning evidence applicable to judicial proceedings.

- (k) **in section 43**

(i) **by striking out** “an officer, assessor or employee of the Board” **and substituting** “a person referred to in section 10 or 17(1)”;

(ii) **by striking out** “an order” **and substituting** “a decision, order”;

- (l) **by repealing section 44;**

- (m) **by adding the following after section 48:**

43 No action or proceeding may be brought against the Board or a member of the Board or an officer, assessor or employee of the Board in respect of any act or thing done purportedly in pursuance of this Act, or any Act that the Board administers, the regulations under any of those Acts or an order or direction of the Board.

Rules of practice

49 The Board may make regulations prescribing rules of practice governing the Board's procedure and hearings.

Regulations regarding security

50(1) In this section, "terrorist activity" means terrorist activity within the meaning of the *Criminal Code* (Canada).

(2) For the purposes of addressing security in respect of terrorist activity or the threat of terrorist activity, the Board may make regulations

- (a) respecting the shutting down of a well, facility or pipeline;
- (b) respecting security measures to be taken in respect of a well, facility or pipeline;
- (c) respecting access to information filed with the Board in respect of a well, facility or pipeline.

(3) A regulation made under subsection (2) is of no force or effect unless it is approved by the Lieutenant Governor in Council.

(4) A regulation made under subsection (2)(c) prevails despite the *Freedom of Information and Protection of Privacy Act*.

Lieutenant Governor in Council regulations

51 The Lieutenant Governor in Council may make regulations prohibiting the delegation of any powers, duties and functions of the Board under section 14.

(6) The *Environmental Protection and Enhancement Act* is amended in section 134

- (a) in clause (b)(iv)(E) by striking out "Alberta Energy and Utilities Board" and substituting "Energy Resources Conservation Board";**
- (b) in clause (e) by striking out "Public Utilities Board" and substituting "Alberta Utilities Commission".**

(7) The *Fair Trading Act* is amended in section 103(2)(c) by striking out "Public Utilities Board" and substituting "Alberta Utilities Commission".

(6) Amends chapter E-12 of the Revised Statutes of Alberta 2000. Reference to the Alberta Energy and Utilities Board replaced with reference to the Energy Resources Conservation Board, and reference to Public Utilities Board replaced with reference to Alberta Utilities Commission.

(7) Amends chapter F-2 of the Revised Statutes of Alberta 2000. Reference to Public Utilities Board replaced with reference to

(8) The *Financial Administration Act* is amended in section 82(11)

- (a) in clause (e) by striking out “Public Utilities Board” and substituting “Alberta Utilities Commission”;**
- (b) by repealing clause (g).**

(9) The *Financial Administration Amendment Act, 2004* is amended by repealing section 19(14).

(10) The *Gas Distribution Act* is amended

- (a) in section 14(3) by striking out “Alberta Energy and Utilities Board” and substituting “Energy Resources Conservation Board”;**
- (b) in section 22(7)(b) by striking out “by the Board” and substituting “by the Commission”;**
- (c) in section 30(4) by striking out “that the Board” and substituting “that the Commission”;**
- (d) in the following provisions by striking out “Alberta Energy and Utilities Board” wherever it occurs and substituting “Alberta Utilities Commission”:**

section 22;
section 27;
section 30.

(11) The *Gas Distribution Amendment Act (RSA 2000 c13(Supp))* is amended in section 2 in the new section 18.1

- (a) in subsection (3)**
 - (i) by striking out “Alberta Energy and Utilities Board” and substituting “Alberta Utilities Commission”;**
 - (ii) by striking out “the Board” wherever it occurs and substituting “the Commission”;**
- (b) in subsection (6) by striking out “Alberta Energy and Utilities Board” and substituting “Alberta Utilities Commission”.**

Alberta Utilities Commission.

(8) Amends chapter F-12 of the Revised Statutes of Alberta 2000. Reference to Public Utilities Board replaced with reference to Alberta Utilities Commission and reference to Alberta Energy and Utilities Board deleted.

(9) Amends chapter 7 of the Statutes of Alberta, 2004 by repealing an unproclaimed provision relating to the Public Utilities Board.

(10) Amends chapter G-3 of the Revised Statutes of Alberta 2000. In section 14(3), reference to the Alberta Energy and Utilities Board changed to Energy Resources Conservation Board; all other references to the Alberta Energy and Utilities Board replaced with references to the Alberta Utilities Commission.

(11) Amends chapter 13(Supp.) of the Revised Statutes of Alberta 2000. References to Alberta Energy and Utilities Board replaced with references to Alberta Utilities Commission.

(12) The Gas Utilities Act is amended

(a) in section 1

(i) by renumbering it as section 1(1);

(ii) by repealing clause (b);

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

(d.1) “Commission” means the Alberta Utilities Commission under the *Alberta Utilities Commission Act*;

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

(f.1) “gas transmission pipeline” means a gas pipeline of

(i) a gas utility, or

(ii) an affiliate of a gas utility that is not otherwise a gas utility, as designated in rules made by the Commission;

(v) in clause (g)(iv) by striking out “Energy Resources Conservation Board” and substituting “Commission”;

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

(2) The Commission may make rules designating an affiliate of a gas utility for the purposes of subsection (1)(f.1)(ii).

(b) by adding the following after section 4:

Jurisdiction of Commission

4.1(1) In addition to the jurisdiction of the Commission in respect of gas transmission pipelines under this Act, the Commission may in respect of gas transmission pipelines exercise all the powers, functions and duties of the Commission set out in the *Pipeline Act*.

(2) The Commission may, in respect of gas transmission pipelines, delegate to the Energy Resources Conservation

(12) Amends chapter G-5 of the Revised Statutes of Alberta 2000. References to Public Utilities Board replaced with references to Alberta Utilities Commission. Adds section 4.1 Jurisdiction of Commission; section 28.9 Natural gas market participants and section 61 Alberta Utilities Commission Act prevails. Sections 1, 17, 28(g) and (j), 28.1(1), 28.3, 28.4, 28.5, 46, 59 and 60 presently read in part:

1 In this Act,

(b) “Board” means the Public Utilities Board;

(g) “gas utility” means

(i) any gas pipeline,

(ii) any system, works, plant, pipes, equipment or service for the production, gathering, conveying, transmission, transporting, delivery, furnishing or supplying of gas by retail or wholesale, either directly or indirectly, to or for the public or any member of the public, whether an individual or a corporation, other than the transportation, delivery, furnishing or supplying by retail or wholesale, either directly or indirectly, of liquefied petroleum gas (except propane and butanes) by means of tank car, tank wagon, cylinder or vessel,

(iii) any absorption plant or scrubbing plant, and

(iv) any system, well, works, plant, equipment or service for the production of gas or capable of producing gas that may be declared by the Energy Resources Conservation Board to be a gas utility;

17 When by a contract between an owner of a gas utility and a municipality or person for the supply of gas by means of the gas utility, any rate, toll or charge is agreed on either as a fixed or variable rate, toll or charge, or a maximum or minimum rate, toll or charge, and whether that rate, toll or charge is agreed on with respect to a present or future supply of gas, then, notwithstanding anything in this Act or the Public Utilities Board Act, the Board may, on the application of the owner, municipality or person and on it being shown on the hearing of the application that the rate, toll or charge is insufficient, excessive, unjust or unreasonable, change the rate, toll or charge to any other greater or lesser rate, toll or charge that it considers fair and reasonable.

Board its powers, duties and functions respecting operational and compliance matters.

(c) in section 17 by striking out “or the *Public Utilities Board Act*, the Board” and substituting “, the *Public Utilities Act* or the *Alberta Utilities Commission Act*, the Commission”;

(d) in section 28 by adding the following after clause (d):

(d.1) “distribution tariff” means the rates, tolls or charges fixed by the Commission, and the terms and conditions fixed by the Commission, for gas distribution service provided by a gas distributor;

(e) by repealing section 28(g);

(f) by repealing section 28(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;

(g) in section 28.1(1)

(i) in clause (f) by striking out “gas distribution tariffs” and substituting “distribution tariffs”;

(ii) in clause (n) by striking out “gas distribution tariff” and substituting “distribution tariff”;

(h) in section 28.3

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

Service standards rules

28.3(1) The Commission may make and enforce rules regarding service standards for each gas distributor and default supply provider related to

28 *In this Part,*

- (g) *“gas distribution tariff” means the rates, tolls or charges fixed by the Board, and the terms and conditions fixed by the Board, for gas distribution service provided by a gas distributor;*
- (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;*

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

- (f) *respecting the responsibility of a gas distributor to develop and offer non-discriminatory gas distribution tariffs;*
- (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;*

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

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

(3) *If the Board is of the opinion that the gas distributor or default supply provider has failed or is failing to meet the service quality standards rules, the Board may by order do all or any of the following:*

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

- (a) billing and billing services provided to customers, and
- (b) the process, procedures and standards for transfer of data relating to the distribution tariff.

(1.1) Rules made under subsection (1) may include rules respecting the payment to the Commission of professional and other costs relating to the development, implementation and administration of

- (a) the rules made under subsection (1),
- (b) a settlement system code established under section 28.1(1)(m),

and by whom the costs are to be paid.

(ii) in subsections (2) and (3)

(A) by striking out “Board” wherever it occurs and substituting “Commission”;

(B) by striking out “service quality standards” wherever it occurs and substituting “service standards”;

(iii) by repealing subsection (3)(d) and substituting the following:

- (d) impose an administrative penalty under section 78 of the *Alberta Utilities Commission Act*.

(iv) by repealing subsection (4);

(i) by repealing section 28.4;

(j) by repealing section 28.5;

(k) by adding the following after section 28.8:

Natural gas market participants

28.9(1) In this section, “natural gas market” and “natural gas market participant” have the same meaning as in the *Alberta Utilities Commission Act*.

(ii) not more than \$500 000 for contravention of a rule.

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

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

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

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

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

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

28.5 The Regulations Act does not apply in respect of

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

46(1) Without in any way affecting the jurisdiction of the Board, other than as expressly provided for in this section, the Board

- (a) may hear any application on behalf of the council of any municipality within which gas is distributed or supplied by a gas utility,
- (b) may investigate the question of the supply of gas and the cost of producing, conveying, distributing, supplying and selling gas to consumers within the municipality,
- (c) may investigate any other matter or question in the opinion of the Board incidental to or bearing on the main question or matter under investigation, and

(2) Natural gas market participants are to conduct themselves in a manner that supports the fair, efficient and openly competitive operation of the natural gas market.

(l) in section 46

- (i) **by striking out “the Board” wherever it occurs and substituting “the Commission”;**
- (ii) **in subsection (4) by striking out “*Public Utilities Board Act*” and substituting “*Public Utilities Act*”;**

(m) in section 59

- (i) **by striking out “the Board” wherever it occurs and substituting “the Commission”;**
- (ii) **by striking out “*Public Utilities Board Act*” and substituting “*Public Utilities Act*”;**

(n) in section 60

- (i) **by striking out “the Board” wherever it occurs and substituting “the Commission”;**
- (ii) **by striking out “*Public Utilities Board Act*” wherever it occurs and substituting “*Public Utilities Act*”;**

(o) by adding the following after section 60:

Alberta Utilities Commission Act prevails

61 If, with respect to matters under sections 59 and 60, there is a conflict between the *Alberta Utilities Commission Act* and the *Public Utilities Act*, the *Alberta Utilities Commission Act* prevails.

(p) in the following provisions by striking out “Board” wherever it occurs and substituting “Commission”:

sections 2 to 5;
section 6, except subsection (1)(d), (e) and (g);
sections 7 to 16;
sections 18 to 28.2;
sections 28.51 to 28.8;
sections 35 to 45;
sections 47 to 50;

(d) may make a report on an investigation to the council of the municipality and the person operating the gas utility.

(2) If the council of a municipality in its application or by a subsequent application makes request for it, the Board shall, when in its opinion the supply of gas is inadequate for the demand of consumers of gas within the municipality, prescribe reasonable rules and regulations requiring the gas utility conveying gas to, or distributing it within the municipality to augment the supply of gas so conveyed or distributed, when in the judgment of the Board it is practicable to do so.

(3) If any request for it is made under this section, the Board shall fix and determine a reasonable price or prices at which gas will be sold within the municipality, having regard to the purpose for which it is used, and shall fix the period during which those prices are to be in effect, and may also prescribe fair and reasonable rates and charges for producing, conveying, distributing, buying or selling gas, or may establish a fair and equitable division of the proceeds of the sale of gas between the person producing or supplying the gas, and the person distributing or selling it to consumers within the municipality.

(4) For the purposes of this section, the Board may exercise all the powers and rights exercisable by it under this Act or the Public Utilities Board Act and in particular but without limiting the generality of the foregoing, the Board may exercise all its powers and rights with respect to the summoning and examination of witnesses, and the production and inspection of documents.

(5) The costs of the investigation are in the discretion of the Board.

59 For the purposes of this Act, the Board has the same powers in respect of the plant, premises, equipment, service and organization for the production, distribution and sale of gas in Alberta, and in respect of the business of an owner of a gas utility and in respect of an owner of a gas utility, that are by the Public Utilities Board Act conferred on the Board in the case of a public utility under that Act.

60 All the provisions of the Public Utilities Board Act relating to the jurisdiction of the Board, hearings, service of notices or orders, regulations, rules and procedure, enforcement of orders, appeals, rights, privileges and immunities of the Board, and applicable in the case of a public utility under that Act, if not provided for expressly in this Act, apply and have effect as if this Act formed a part of the Public Utilities Board Act.

section 52;
sections 57 and 58;

(q) in the following provisions by striking out “Board’s” and substituting “Commission’s”:

section 7(1);
section 28.52(f);
section 28.6;
section 40(a), (b);
section 42(3).

(13) The *Government Organization Act* is amended in section 9(b) of Schedule 5 by striking out “Public Utilities Board” and substituting “Alberta Utilities Commission”.

(14) The *Hydro and Electric Energy Act* is amended

(a) in section 1(1)

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

(a) “Commission” means the Alberta Utilities Commission under the *Alberta Utilities Commission Act*;

(ii) by repealing clause (k) and substituting the following:

(k) “power plant” means the facilities for the generation and gathering of electric energy from any source;

(b) in section 3(1) by striking out “section 3 of the *Energy Resources Conservation Act*” and substituting “section 17 of the *Alberta Utilities Commission Act*”;

(c) in section 14

(i) in subsection (1) by striking out “, or undertake any operations preparatory to the construction of a transmission line,”;

(ii) by repealing subsection (3);

(13) Amends chapter G-10 of the Revised Statutes of Alberta 2000. Reference to the Public Utilities Board replaced with reference to Alberta Utilities Commission.

(14) Amends chapter H-16 of the Revised Statutes of Alberta 2000. References to the Energy Resources Conservation Board and the Public Utilities Board replaced with references to the Alberta Utilities Commission. Adds section 15.1 Consideration of ISO certificate; section 15.2 Decision; section 15.3 Incentives; section 15.4 Combining application and submission. Section 1(1)(a) and (k), 3(1), 14(1) and (3), 22 and 28(2) presently read:

1(1) In this Act,

(a) "Board" means the Energy Resources Conservation Board;

(k) "power plant" means the facilities for the generation of electric energy from any energy source;

3(1) Where the Board is considering

(a) an application under section 11 for the construction or operation of a generating unit as defined in the Electric Utilities Act, or

(b) an application under section 18 for connection of a generating unit as defined in the Electric Utilities Act,

the Board, for the purposes of the consideration required to be given by the Board under section 3 of the Energy Resources Conservation Act and in order to determine whether the purposes of this Act will be achieved,

(d) by adding the following after section 15:

Consideration of ISO certification

15.1 When the Commission is considering an application for an approval, permit or licence under this Part in respect of a transmission line or part of a transmission line that has the potential to meet a need identified in a needs identification document that has been approved by the Commission under section 34(1) of the *Electric Utilities Act*, the Commission shall take into account a certification by the Independent System Operator that the technical aspects of the application meet the requirements set out in the needs identification document.

Decision

15.2(1) When considering an application for an approval, permit or licence under this Part in respect of a transmission line or part of a transmission line, the Commission

- (a) shall make its decision in a timely manner, and
- (b) shall make a decision in respect of more than one transmission line or part of a transmission line if approval is sought for multiple transmission lines or parts of transmission lines.

(2) If the Commission cannot make a decision within 180 days of receipt of a complete application, the Commission shall, before the 180 days elapse,

- (a) notify the applicant of the reasons why it has not made or will not be able to make a decision,
- (b) state its best estimate as to when it reasonably expects to make the decision, and
- (c) make the reasons and estimate public.

Incentives

15.3 When considering an application for an approval, permit or licence under this Part in respect of a transmission line or part of a transmission line that the Independent System Operator has directed the owner to submit for Commission approval under section 35(1)(a) of the *Electric Utilities Act*, the Commission may approve incentives, including incentives proposed by the applicant, that are intended to result in cost savings or other benefits associated with the project.

- (c) *shall not have regard to whether the generating unit is an economic source of electric energy in Alberta or to whether there is a need for the electric energy to be produced by such facility in meeting the requirements for electric energy in Alberta or outside Alberta, and*
- (d) *must have regard for the purposes of the Electric Utilities Act.*

14(1) No person shall construct a transmission line or any part of a transmission line, or undertake any operations preparatory to the construction of a transmission line, unless the person is the holder of a permit issued by the Board.

(3) Where the Board is considering an application under subsection (1) or (2), the Board shall consider whether the facility for which approval is sought is and will be required to meet present and future public convenience and need.

22 Section 21 applies only to generating units that are isolated generating units as defined in the Electric Utilities Act.

28(2) For the purpose of carrying out its duties under this section, the Board shall, subject to further order under this Part, treat the area specified in an approval given prior to June 1, 1971 by the Public Utilities Board under section 97 of the Public Utilities Board Act then in force, or its predecessors, as a service area of the electric distribution system for which the approval was granted.

Combining application and submission

15.4 If a person makes an application under this Part and the Independent System Operator has submitted a needs identification document to the Alberta Utilities Commission under section 34 of the *Electric Utilities Act* in respect of the same transmission line or part of a transmission line, the application and submission may be combined and considered by the Commission.

(e) by repealing section 22;

(f) in section 28(2) by striking out “the Board shall” and substituting “the Commission shall”;

(g) in section 43 by striking out “Energy Resources Conservation Act” and substituting “Alberta Utilities Commission Act”;

(h) by striking out “the Board” wherever it occurs except in section 28(2) and substituting “the Commission”;

(i) by striking out “The Board” wherever it occurs and substituting “The Commission”;

(j) in the following provisions by striking out “Public Utilities Board” and substituting “Alberta Utilities Commission”:

section 17(3);
section 18(7);
section 29(4);
section 32(2)(b)(iii);
section 39(2);

(k) in the following provisions by striking out “Board’s” and substituting “Commission’s”:

section 17(1);
section 20(4)(a);
section 32(1).

(15) The *Irrigation Districts Act* is amended in section 191 by striking out “Public Utilities Board Act” and substituting “Public Utilities Act”.

(15) Amends chapter I-11 of the Revised Statutes of Alberta 2000. Reference to Public Utilities Board Act changed to Public Utilities Act.

(16) The *Mines and Minerals Act* is amended

- (a) in section 18(2) by striking out** “or the Alberta Energy and Utilities Board” **and substituting** “, the Energy Resources Conservation Board or the Alberta Utilities Commission”;
- (b) by repealing section 87(5);**
- (c) in the following provisions by striking out** “Alberta Energy and Utilities Board” **wherever it occurs and substituting** “Energy Resources Conservation Board”:
 - section 56;
 - section 67(2);
 - section 85.

(17) The *Municipal Government Act* is amended

- (a) in section 43**
 - (i) by striking out** “Public Utilities Board” **wherever it occurs and substituting** “Alberta Utilities Commission”;
 - (ii) by striking out** “the Board” **and substituting** “the Commission”;
- (b) in section 44**
 - (i) in subsection (1) by striking out** “Public Utilities Board” **and substituting** “Alberta Utilities Commission”;
 - (ii) in subsection (2) by striking out** “The Board” **and substituting** “The Commission”;
 - (iii) in subsection (3)**
 - (A) by striking out** “Public Utilities Board pursuant” **and substituting** “Alberta Utilities Commission pursuant”;
 - (B) by striking out** “*Public Utilities Board Act*” **and substituting** “*Public Utilities Act*”;
- (c) in section 47**

(16) Amends chapter M-17 of the Revised Statutes of Alberta 2000. References to Alberta Energy and Utilities Board replaced with references to the Energy Resources Conservation Board and a reference to the Alberta Utilities Commission added.

(17) Amends chapter M-26 of the Revised Statutes of Alberta 2000. References to the Alberta Energy and Utilities Board and the Public Utilities Board replaced with references to the Alberta Utilities Commission. In section 360, “distribution access service” is changed to “electric distribution service”.

- (i) **by striking out** “Public Utilities Board” **wherever it occurs and substituting** “Alberta Utilities Commission”;
 - (ii) **by striking out** “the Board” **and substituting** “the Commission”;
- (d) **in section 47.1**
- (i) **in subsection (2) by striking out** “*Public Utilities Board Act*” **and substituting** “*Public Utilities Act*”;
 - (ii) **in subsection (3) by striking out** “Public Utilities Board” **wherever it occurs and substituting** “Alberta Utilities Commission”;
- (e) **in section 48(3)**
- (i) **by striking out** “Public Utilities Board” **and substituting** “Alberta Utilities Commission”;
 - (ii) **by striking out** “the Board’s” **and substituting** “the Commission’s”;
- (f) **in section 292(2)(b)(i) by striking out** “Alberta Energy and Utilities Board” **and substituting** “Alberta Utilities Commission or the Energy Resources Conservation Board”;
- (g) **in section 360 by striking out** “distribution access service” **wherever it occurs and substituting** “electric distribution service”;
- (h) **in section 619**
- (i) **by repealing subsection (11) and substituting the following:**

(11) In this section, “NRCB, ERCB, AEUB or AUC” means the Natural Resources Conservation Board, Energy Resources Conservation Board, Alberta Energy and Utilities Board or Alberta Utilities Commission.
 - (ii) **by striking out** “NRCB, ERCB or AEUB” **wherever it occurs and substituting** “NRCB, ERCB, AEUB or AUC”;

- (i) **in the following provisions by striking out “Alberta Energy and Utilities Board” and substituting “Alberta Utilities Commission”:**

section 28.1(1)(a);
section 30(2) and (3);
section 360(4.1);
section 694(5.1);

- (j) **in the following provisions by striking out “Public Utilities Board” wherever it occurs and substituting “Alberta Utilities Commission”:**

section 30(1);
section 31(4);
section 45(3)(b);
section 127.1(1);
section 284(1)(k);
section 360(4) and (5);
section 602.14;
section 602.15(1)(a).

(18) The *Natural Gas Marketing Act* is amended in sections 5 and 8(h) by striking out “Public Utilities Board” and substituting “Alberta Utilities Commission”.

(19) The *Natural Gas Rebates Act* is amended

- (a) in section 1**

(i) by repealing clause (a);

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

(b.1) “Commission” means the Alberta Utilities Commission under the *Alberta Utilities Commission Act*;

(iii) in clause (c)(ii)(A) by striking out “*Public Utilities Board Act*” and substituting “*Public Utilities Act*”;

(b) in sections 4(g) and 8(g) by striking out “Board” and substituting “Commission”.

(18) Amends chapter N-1 of the Revised Statutes of Alberta 2000. References to the Public Utilities Board replaced with references to the Alberta Utilities Commission.

(19) Amends chapter N-2 of the Revised Statutes of Alberta 2000. References to the Public Utilities Board replaced with references to the Alberta Utilities Commission.

(20) The *Oil and Gas Conservation Act* is amended

- (a) in section 9(1)(d) by striking out “Public Utilities Board” and substituting “Alberta Utilities Commission”;**
- (b) by striking out the heading preceding section 55 and substituting the following:**

Alberta Utilities Commission

- (c) in section 55**
 - (i) in subsection (1) by striking out “*Public Utilities Board Act*” and substituting “*Public Utilities Act*”;**
 - (ii) by striking out “apply to the Public Utilities Board” wherever it occurs and substituting “apply to the Alberta Utilities Commission”;**
- (d) in section 59(2) by striking out “as determined pursuant to the *Alberta Energy and Utilities Board Act*”.**

(21) The *Petroleum Marketing Act* is amended in section 16

- (a) in subsection (3) by striking out “*Public Utilities Board Act*” and substituting “*Public Utilities Act*”;**
- (b) in subsection (4) by striking out “Public Utilities Board” and substituting “Alberta Utilities Commission”.**

(22) The *Pipeline Act* is amended

- (a) in section 1(1)**
 - (i) by adding the following after clause (i):**
 - (i.1) “gas transmission pipeline” means a gas transmission pipeline as defined in the *Gas Utilities Act*;
 - (ii) by repealing clauses (m) and (n) and substituting the following:**
 - (m) “licence” means a licence to construct and operate a pipeline under this Act or a gas transmission pipeline under the *Gas Utilities Act*;

(20) Amends chapter O-6 of the Revised Statutes of Alberta 2000. References to the Public Utilities Board replaced with references to the Alberta Utilities Commission.

(21) Amends chapter P-10 of the Revised Statutes of Alberta 2000. Reference to the Public Utilities Board replaced with reference to the Alberta Utilities Commission.

(22) Amends chapter P-15 of the Revised Statutes of Alberta 2000. Adds section 3.1 Jurisdiction of Board. Section 1(1)(m) and (n) presently read:

1(1) In this Act,

(m) "licence" means a licence to construct and operate a pipeline under this Act;

(n) "licensee" means the holder of a licence according to the records of the Board and includes a trustee or receiver-manager of property of a licensee;

- (n) “licensee” means the holder of a licence for a pipeline according to the records of the Board or the holder of a licence for purposes of a gas transmission pipeline according to the records of the Alberta Utilities Commission and includes a trustee or receiver-manager of the property of a licensee;

(b) by adding the following before section 4:

Jurisdiction of Board

3.1 The Board has jurisdiction with respect to pipelines, other than gas transmission pipelines.

(23) The *Post-secondary Learning Act* is amended in section 17(b) by striking out “Public Utilities Board Act” and substituting “Public Utilities Act”.

(24) The *Public Highways Development Act* is amended in section 36(4) by striking out “Public Utilities Board” and substituting “Alberta Utilities Commission”.

(25) The *Public Utilities Board Act* is amended

- (a) **by repealing the title of the Act and substituting the following:**

PUBLIC UTILITIES ACT

- (b) **in section 1**

- (i) **by repealing clause (a);**

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

- (b.1) “Commission” means the Alberta Utilities Commission under the *Alberta Utilities Commission Act*;

- (c) **by repealing Part 1;**

- (d) **by striking out “Board” wherever it occurs and substituting “Commission”;**

- (e) **by adding the following after section 78:**

(23) Amends chapter P-19.5 of the Statutes of Alberta, 2003. Reference to Public Utilities Board Act changed to Public Utilities Act.

(24) Amends chapter P-38 of the Revised Statutes of Alberta 2000. Reference to the Public Utilities Board replaced with reference to the Alberta Utilities Commission.

(25) Amends chapter P-45 of the Revised Statutes of Alberta 2000. Title of Act changed and Part 1, Administration, which pertains to the Public Utilities Board, repealed. References to the Public Utilities Board replaced with references to the Alberta Utilities Commission. Adds sections 78.1 Jurisdiction and powers; 78.2 Intervention by municipality and 78.3 Furnishing documents, etc., to Commission.

Jurisdiction and powers

78.1(1) The Commission has all the necessary jurisdiction and power

- (a) to deal with public utilities and the owners of them as provided in this Act;
- (b) to deal with public utilities and related matters as they concern suburban areas adjacent to a city, as provided in this Act.

(2) The Commission has, and is deemed at all times to have had, jurisdiction to fix and settle, on application, the price and terms of purchase by a council of a municipality pursuant to section 47 of the *Municipal Government Act*

- (a) before the exercise by the council under that provision of its right to purchase and without binding the council to purchase, or
- (b) when an application is made under that provision for the Commission's consent to the purchase, before hearing or determining the application for its consent.

Intervention by municipality

78.2(1) When the council of a municipality considers that the interest of the public in the municipality or in a considerable portion of the municipality is sufficiently concerned, the council may by resolution authorize the municipality to become a complainant or intervener in any matter within the jurisdiction of the Commission.

(2) For the purposes of subsection (1), the council of a municipality may take any steps, incur any expense and take any proceedings necessary to submit the question in dispute to the decision of the Commission, and if necessary may authorize the municipality to become a party to an appeal from a decision of the Commission.

Furnishing documents, etc., to Commission

78.3(1) The officials of a local authority to whom the Commission applies for statements, reports, copies of documents or information of any kind shall furnish the required statements, reports, copies or information to the Commission free of charge.

(2) The Registrar of Titles under the *Land Titles Act*, the Registrar of the Metis Settlements Land Registry and the Minister of Infrastructure and Transportation, to the extent that they relate to public works, shall furnish the Commission without charge with any certificates and certified copies of documents that the Commission in writing requires, and the Commission and a member or official of the Commission authorized by the Commission may at any time search in the public records of the land titles offices or the Metis Settlements Land Registry free of charge.

- (f) in section 90(3) by striking out “Board’s” and substituting “Commission’s”;
- (g) in section 91(1)(a) and (c) by striking out “Board’s” and substituting “Commission’s”;
- (h) in section 94(3) by striking out “Board’s” and substituting “Commission’s”;
- (i) in the heading preceding section 124 by striking out “Division 6” and substituting “Division 7”.

(26) The *Rural Electrification Loan Act* is amended in section 35 by striking out “Public Utilities Board” and substituting “Alberta Utilities Commission”.

(27) The *Rural Electrification Long-term Financing Act* is amended in section 36 by striking out “Public Utilities Board” and substituting “Alberta Utilities Commission”.

(28) The *Small Power Research and Development Act* is amended

- (a) in section 4
 - (i) by striking out “Public Utilities Board” wherever it occurs and substituting “Alberta Utilities Commission”;
 - (ii) in subsection (4) by striking out “the Board” and substituting “the Commission”;
- (b) in section 7(a) by striking out “Public Utilities Board” and substituting “Alberta Utilities Commission”.

(26) Amends chapter R-19 of the Revised Statutes of Alberta 2000. Reference to the Public Utilities Board replaced with reference to the Alberta Utilities Commission.

(27) Amends chapter R-20 of the Revised Statutes of Alberta 2000. Reference to the Public Utilities Board replaced with reference to the Alberta Utilities Commission.

(28) Amends chapter S-9 of the Revised Statutes of Alberta 2000. References to Public Utilities Board replaced with references to Alberta Utilities Commission.

(29) The *Water Act* is amended in section 168(2) by striking out “*Public Utilities Board Act*” and substituting “*Public Utilities Act*”.

(30) The *Water, Gas and Electric Companies Act* is amended in sections 8(2) and 10(3) by striking out “Public Utilities Board” and substituting “Alberta Utilities Commission”.

Repeal

97 The *Alberta Energy and Utilities Board Act*, RSA 2000 cA-17, is repealed.

Coming into force

98(1) This Act comes into force on Proclamation.

(2) On the coming into force of section 96(14)(c)(ii), section 96(14)(c)(ii) is deemed to have come into force on June 1, 2003.

(29) Amends chapter W-3 of the Revised Statutes of Alberta 2000. Reference to Public Utilities Board Act changes to Public Utilities Act.

(30) Amends chapter W-4 of the Revised Statutes of Alberta 2000. References to the Public Utilities Board replaced with references to the Alberta Utilities Commission.

97 Repeal.

98 Coming into force.

