

2009 Bill 50

Second Session, 27th Legislature, 58 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 50

**ELECTRIC STATUTES
AMENDMENT ACT, 2009**

THE MINISTER OF ENERGY

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 50

BILL 50

2009

ELECTRIC STATUTES AMENDMENT ACT, 2009

(Assented to , 2009)

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

Alberta Utilities Commission Act

Amends SA 2007 cA-37.2

1(1) The *Alberta Utilities Commission Act* is amended by this section.

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

(g) “reliability standards” means reliability standards as defined in the *Electric Utilities Act*.

(3) Section 17 is amended by renumbering it as section 17(1) and by adding the following after subsection (1):

(2) Subsection (1) does not apply to critical transmission infrastructure as defined in the *Electric Utilities Act*.

Explanatory Notes

Alberta Utilities Commission Act

1(1) Amends chapter A-37.2 of the Statutes of Alberta, 2007.

(2) Definition added.

(3) Section 17 presently reads:

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 utility 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 utility 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.

(4) Section 39 is amended

- (a) in subsection (1)(b)(i) by adding “reliability standards,” after “ISO rules,”;**
- (b) in subsection (3)(b)(i) by adding “reliability standards,” after “ISO rules,”.**

(5) Section 51(1)(a)(i) is repealed and the following is substituted:

- (i) has contravened the *Electric Utilities Act*, a regulation under that Act, an ISO rule or a reliability standard,

(4) Section 39 presently reads in part:

39(1) Subject to regulations made under section 59(1)(a), the Market Surveillance Administrator has the mandate

(b) to investigate matters, on its own initiative or on receiving a complaint or referral under section 41, 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,

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

(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,

(5) Section 51(1)(a) presently reads:

51(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,

(6) Section 52 is amended

- (a) in subsection (1) by striking out** “an ISO rule made under the *Electric Utilities Act*” **and substituting** “an ISO rule or a reliability standard”;
- (b) in subsection (7)(b) by adding** “or reliability standards” **after** “ISO rules”.

(7) Section 56(3)(a)(i) is repealed and the following is substituted:

- (i) has contravened the *Electric Utilities Act*, a regulation under that Act, an ISO rule or a reliability standard,

(8) Section 63(1) is amended by striking out “or ISO rule” **and substituting** “, ISO rule or reliability standard”.

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

(6) Section 52 presently reads in part:

52(1) Notwithstanding section 51, 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 (7), the Market Surveillance Administrator may issue a notice of specified penalty to the person in accordance with the rules made under subsection (7).

(7) The Commission may make rules

(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;

(7) Section 56(3)(a)(i) presently reads:

(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,

(8) Section 63(1) presently reads:

63(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 or any Commission rule or ISO rule, the Commission may by order do either or both of the following:

(a) impose an administrative penalty on that person;

(b) impose any terms or conditions on that person that the Commission considers appropriate.

(9) Section 64(2) and (3) are amended by striking out “or an ISO rule” wherever it occurs and substituting “, an ISO rule or a reliability standard”.

(10) Section 66 is amended by striking out “or ISO rule” and substituting “, ISO rule or reliability standard”.

Electric Utilities Act

Amends SA 2003 cE-5.1

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

(2) Section 1(1) is amended

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

(f.1) “critical transmission infrastructure” means a transmission facility designated under section 41.1 or the Schedule as critical transmission infrastructure;

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

(9) Section 64(2) and (3) presently read:

(2) A person who fails to comply with this Act or the regulations or a Commission rule or an ISO rule is guilty of an offence.

(3) A person who advises, solicits, persuades, instructs, directs or orders a person

(a) to do an act or thing prohibited by this Act or the regulations or a Commission order or rule or an ISO rule, or

(b) to omit to do an act or thing required to be done by this Act or the regulations or a Commission order or rule or an ISO rule

is guilty of an offence.

(10) Section 66 presently reads:

66 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 and the hearing or other proceeding, subject to the rules under section 76(1)(h).

Electric Utilities Act

2(1) Amends chapter E-5.1 of the Statutes of Alberta, 2003.

(2) Definitions added.

(ss.1) “reliability standards” means the reliability standards made under section 142(1)(1.1);

(3) Section 20.8 is repealed and the following is substituted:

Duty to comply with ISO rules and reliability standards

20.8 A market participant must comply with

- (a) the ISO rules that are in effect, and
- (b) the reliability standards.

(4) Section 21.1 is amended by adding “or a reliability standard” after “an ISO rule”.

(5) Section 33 is amended by renumbering it as section 33(1) and by adding the following after subsection (1):

(2) In developing plans under subsection (1), the Independent System Operator must consult on the plans, in accordance with the regulations, before completing the preparation of the plans.

(3) The Independent System Operator must provide to the Minister, in accordance with the regulations, the plans completed by it under subsection (1).

(6) The following is added after section 41:

**Part 2.1
Critical Transmission
Infrastructure**

Designation of critical transmission infrastructure

41.1(1) The Lieutenant Governor in Council may designate as critical transmission infrastructure a proposed transmission facility if it is contained in a plan that is prepared by the Independent System Operator pursuant to this Act or the regulations and if the transmission facility

- (a) is an intertie,

(3) Section 20.8 presently reads:

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

(4) Section 21.1 presently reads:

21.1 Except as otherwise provided by the regulations, if the Independent System Operator suspects that a market participant has contravened an ISO rule, the Independent System Operator must refer the matter to the Market Surveillance Administrator.

(5) Section 33 presently reads:

33 The Independent System Operator must forecast the needs of Alberta and develop plans for the transmission system to provide efficient, reliable and non-discriminatory system access service and the timely implementation of required transmission system expansions and enhancements.

(6) Adds Part 2.1 dealing with critical transmission infrastructure and transmission regulation.

- (b) is to serve areas of renewable energy,
- (c) is a double circuit transmission facility that is designed to be energized at a nominal voltage of 240 000 volts,
- (d) is designed to be energized at a voltage in excess of 240 000 volts, or
- (e) is, in the opinion of the Lieutenant Governor in Council, critical to ensure the safe, reliable and economic operation of the interconnected electric system.

(2) An order under subsection (1)

- (a) must for each transmission facility designated as critical transmission infrastructure
 - (i) describe the technical solution, which may include voltage, transmission capacity expressed in megawatts and alternating current or direct current,
 - (ii) that is linear in nature, describe the approximate geographic starting point and the approximate geographic end point of the critical transmission infrastructure,
 - (iii) that is not linear in nature, describe the approximate geographic area of the location of the critical transmission infrastructure, and
 - (iv) contain or address any matters required by the regulations made under section 142,
- (b) may vary from the description of the proposed transmission facility contained in the plan prepared by the Independent System Operator referred to in subsection (1), and
- (c) may contain any other matter that the Lieutenant Governor in Council considers necessary.

Non-application of ss34 to 36

41.2 Sections 34, 35 and 36 do not apply to critical transmission infrastructure.

Direction to apply

41.3 Subject to the regulations and an order under section 41.1(1), the Independent System Operator must, in a timely manner, direct a person determined under the regulations to make an application in a timely manner to the Commission under the *Hydro and Electric Energy Act* for an approval of critical transmission infrastructure.

(7) Section 82 is amended

(a) in subsection (3) by striking out “over the expected life of the Balancing Pool and calculate” **and substituting** “and include”;

(b) by repealing subsection (9) and substituting the following:

(9) In this section, “annualized amount” means annualized amount as defined in or calculated under the regulations made under section 88.

(7) Section 82 presently reads:

82(1) The Balancing Pool must prepare a budget for each fiscal year setting out the estimated revenues and expenses of the Balancing Pool to carry out its powers, duties, responsibilities and functions, which may include expenditures for capital assets allocated over the useful life of the asset.

(2) The Balancing Pool may amend its budget.

(3) The Balancing Pool, in establishing or amending its budget, must forecast its revenues and expenses over the expected life of the Balancing Pool and calculate an annualized amount.

(4) The Balancing Pool must notify the Independent System Operator of the annualized amount for each fiscal year.

(5) On receiving notice of the annualized amount, the Independent System Operator must include that amount in its tariff in accordance with section 30(2).

(6) The Commission must

(a) approve the annualized amount provided to the Independent System Operator by the Balancing Pool, without modification, and

(b) approve, with or without modification, the allocation of the annualized amount to the owners of electric distribution systems, industrial systems and persons that have made arrangements under section 101(2).

(7) The Balancing Pool and the Independent System Operator must co-operate in determining the appropriate timing and methodology of transferring the annualized amount

(a) to the Independent System Operator from the Balancing Pool, if the amount is a positive amount, or

(8) Section 85(1) is amended

- (a) in clause (h) by striking out** “that over the life of the Balancing Pool” **and substituting** “, in accordance with the regulations made under section 88, that”;
- (b) in clause (j) by striking out** “, over the life of the Balancing Pool,”.

(9) The heading preceding section 87 is amended by striking out “Winding-up and”.

(10) Section 87 is repealed.

(b) *from the Independent System Operator to the Balancing Pool, if the amount is a negative amount.*

(8) *If in respect of any year the Independent System Operator and the Balancing Pool fail to agree on the timing and methodology of transferring the annualized amount, that amount must be transferred by the Independent System Operator to the Balancing Pool in equal monthly instalments.*

(9) *In this section, “annualized amount” means a forecast of an equal annual amount that, if included in the ISO tariff, would result in the amount in the balancing pool accounts totalling \$0 when it is wound up.*

(8) Section 85(1) presently reads in part:

85(1) The Balancing Pool has the following duties:

(h) *to ensure that over the life of the Balancing Pool any net amount in the balancing pool accounts that is greater than \$0 or less than \$0 is included in the ISO tariff;*

(j) *to manage the balancing pool accounts so that, over the life of the Balancing Pool, no profit or loss results, after accounting for the annualized amount under section 82(7) as a revenue or expense of the Balancing Pool;*

(9) The heading preceding section 87 presently reads:

*Division 3
Winding-up and Regulations*

(10) Section 87 presently reads:

87 The Balancing Pool must

(a) *commence winding up the Balancing Pool on December 31, 2020, or with the approval of the Minister, on an earlier date, and*

(b) *complete winding up not later than June 30, 2021.*

(11) Section 88 is amended

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

(a.1) defining “annualized amount” or determining how it is to be calculated;

(b) by repealing clause (c).

(12) Section 142(1) is amended

(a) in clause (l)(iv) by adding “, construction” after “development”;

(b) by repealing clause (l)(v) and substituting the following:

(v) respecting directions that the Independent System Operator may give to owners of transmission facilities or other market participants or persons relating to

(A) critical transmission infrastructure and other transmission facilities,

(B) the planning, development, construction and operation of a safe, reliable and economic interconnected electric system, or

(C) ensuring an adequate supply of electricity on a short-term basis or during abnormal conditions,

(v.1) respecting the planning, development, construction and operation of transmission facilities, including

(A) critical transmission infrastructure,

(B) inerties, and

(C) transmission facilities to serve areas of renewable energy,

(11) Section 88 presently reads:

88 The Minister may make regulations

- (a) respecting payments into and out of the balancing pool accounts and who is to make or receive the payments;*
- (b) adding to, clarifying, limiting or restricting any of the Balancing Pool's powers, duties, responsibilities and functions or regulating how they are to be exercised;*
- (c) respecting the winding-up of the Balancing Pool.*

(12) Section 142(1)(l) presently reads:

142(1) The Lieutenant Governor in Council may make regulations

- (l) respecting any aspect of the interconnected electric system, including, without limitation, regulations*
 - (i) respecting the use of the interconnected electric system for the import and export of electricity,*
 - (ii) respecting the implementation of principles and requirements related to the import and export of electricity,*
 - (iii) setting out the principles and criteria that the Commission must or may have regard for when considering approval of*
 - (A) a needs identification document described in section 34,*
 - (B) an expansion or enhancement of the transmission system, or*
 - (C) a tariff of the ISO, an owner of a transmission facility or an owner of an electric distribution system,*
 - (iv) respecting costs and any other matters relating to the planning, development and operation of a safe, reliable and economic interconnected electric system,*
 - (v) respecting directions that the ISO may give to market participants relating to*

and who is responsible for paying the costs related to the facilities referred to in paragraphs (A), (B) and (C),

- (v.2) respecting plans under section 33, including
 - (A) which plans the Independent System Operator must consult on,
 - (B) the matters that must be included in plans,
 - (C) whom the Independent System Operator must consult with, and
 - (D) the extent or nature of the consultation,
- (v.3) respecting the determination of who may apply for the construction or operation, or both, of transmission facilities, including
 - (A) who may make the determination, and
 - (B) determining who may apply, based on
 - (I) a competitive process, or
 - (II) some other method or process,
- (v.4) respecting the principles and criteria that the Commission must have regard to when determining the specific location or detailed route of critical transmission infrastructure or other transmission facilities, and

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

- (l.1) respecting reliability standards for or in relation to transmission facilities, electric distribution systems or generating units or the owners or users of those facilities, systems or units;

- (A) the planning, development and operation of a safe, reliable and economic interconnected electric system, or*
 - (B) ensuring an adequate supply of electricity on a short-term basis or during abnormal conditions,*
- and*
- (vi) respecting the combining of an application for an approval under the Hydro and Electric Energy Act with an application for approval of a needs identification document described in section 34.*

(13) The following is added after section 169:

Schedule

Critical Transmission Infrastructure

Each of the critical transmission infrastructure described in this Schedule includes all associated facilities required to interconnect a transmission facility described in this Schedule to the interconnected electric system.

The following transmission facilities are designated as critical transmission infrastructure:

- 1** Two high voltage direct current transmission facilities between the Edmonton and Calgary regions, with a minimum capacity of 2000 megawatts each, generally described as follows:
 - (a) one facility with a northern terminal in the vicinity of the existing Keephills - Genesee generating units and the southern terminal at or in the vicinity of the existing Langdon 102S substation, and
 - (b) one facility, located east of the facility described in (a) and geographically separated from that facility for the purposes of ensuring reliability of the transmission system, with a northern terminal at or in the vicinity of a new substation to be built in the Gibbons - Redwater region and a southern terminal
 - (i) at or in the vicinity of the existing West Brooks 28S substation, or
 - (ii) at or in the vicinity of a new substation to be located in the Raymond - Bow Island region.
- 2** One double circuit 500 kV alternating current transmission facility connecting to the 500 kV transmission system on the south side of the City of Edmonton and to a new substation to be built in the Gibbons - Redwater region.
- 3** A new 240 kV substation to be built in the southeast area of the City of Calgary.

(13) Adds Schedule.

4 Two single circuit 500 kV alternating current transmission facilities from the Edmonton region to the Fort McMurray region, generally described as follows:

- (a) one facility from the existing Genesee generating units to a new substation to be built in the Thickwood Hills area, approximately 25 km west of Fort McMurray Urban Service Area, and
- (b) one facility from a new substation to be built in the Gibbons - Redwater region to a new substation to be built in the Thickwood Hills area, approximately 25 km west of Fort McMurray Urban Service Area.

Hydro and Electric Energy Act

Amends RSA 2000 cH-16

3(1) The *Hydro and Electric Energy Act* is amended by this section.

(2) The following is added before section 14:

Critical transmission infrastructure

13.1(1) In this section, “critical transmission infrastructure” means critical transmission infrastructure as defined in the *Electric Utilities Act*.

(2) The construction, connection and operation of a transmission line or part of a transmission line that is designated as critical transmission infrastructure is required to meet the needs of Alberta and is in the public interest.

(3) Section 19 is amended by adding the following after subsection (1):

(1.1) Notwithstanding subsection (1), the Commission shall not refuse an approval of a transmission line or part of a transmission line designated as critical transmission infrastructure as defined in the *Electric Utilities Act* on the basis that, in its opinion, it does not meet the needs of Alberta or is not in the public interest.

Hydro and Electric Energy Act

3(1) Amends chapter H-16 of the Revised Statutes of Alberta 2000.

(2) Critical transmission infrastructure.

(3) Section 19 presently reads:

19(1) On an application for an approval, permit or licence under this Part, or for an amendment of an approval, permit or licence, the Commission may grant the approval, permit, licence or amendment subject to any terms and conditions that it prescribes or may deny the application.

(2) Without restricting the generality of subsection (1), the Commission may do one or more of the following:

Coming into Force

Coming into force

- 4 This Act comes into force on Proclamation.**

- (a) require changes in the plans and specifications of a hydro development, power plant or transmission line;*
- (b) require changes in the location of a hydro development, power plant or transmission line;*
- (c) prescribe a date before which the construction of, or operation of, the hydro development, power plant or transmission line must commence;*
- (d) prescribe the location and route of the transmission line as precisely as it considers suitable;*
- (e) prescribe the location of the right of way of the transmission line and the relationship of its boundaries to the transmission line or any part of the transmission line.*

Coming into Force

- 4** Coming into force.

