

2019 Bill 18

First Session, 30th Legislature, 68 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 18

**ELECTRICITY STATUTES
(CAPACITY MARKET TERMINATION)
AMENDMENT ACT, 2019**

THE MINISTER OF ENERGY

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 18

2019

**ELECTRICITY STATUTES
(CAPACITY MARKET TERMINATION)
AMENDMENT ACT, 2019**

(Assented to , 2019)

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(2) Section 31(1)(a.1) and (a.2) are repealed.

(3) Section 39 is amended

(a) in subsection (1)

(i) in clause (a)

(A) by adding “and” at the end of subclause (i);

Explanatory Notes

Alberta Utilities Commission Act

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

(2) Section 31(1) presently reads in part:

31(1) In this Part,

(a.1) “capacity market” means the capacity market as defined in the Electric Utilities Act;

(a.2) “capacity market participant” means a capacity market participant as defined in the Electric Utilities Act;

(3) Section 39 presently reads in part:

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

(a) to carry out surveillance in respect of

- (B) by repealing subclause (i.1);**
- (ii) in clause (b)(ii) and (iii) by striking out “, the capacity market”;**
- (b) in subsection (2)(a)**
 - (i) by striking out “both the electricity market and the capacity market” and substituting “the electricity market”;**
 - (ii) in subclause (i) by striking out “and capacity market participants”;**
 - (iii) in subclause (ii) by striking out “and the capacity market”;**
 - (iv) by repealing subclause (vii.1);**
- (c) in subsection (3)**
 - (i) by repealing clause (b);**
 - (ii) in clause (d) by striking out “and the capacity market”;**
- (d) in subsection (4) by striking out “, the capacity market”.**

- (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,*
- (i.1) *the capacity market, and*
- (b) *to investigate matters, on its own initiative or on receiving a complaint or referral under section 41, and to undertake activities to address*
 - (ii) *conduct that does not support the fair, efficient and openly competitive operation of the electricity market, the capacity market or the natural gas market, and*
 - (iii) *any other matters that relate to or affect the structure and performance of the electricity market, the capacity 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 both the electricity market and the capacity 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 and capacity market participants;*
 - (ii) *the structure and performance of the electricity market and the capacity market;*
 - (vii.1) *arrangements, information sharing and decisions relating to capacity market participants providing or wishing to provide capacity, or any aspect of those activities;*
- (3) *In carrying out its mandate, the Market Surveillance Administrator shall assess the following:*
 - (b) *whether or not the conduct of a capacity market participant supports the fair, efficient and openly competitive operation of the capacity market and whether or not the capacity market participant has complied with or is complying with*

(4) Section 46(1)(a) and (f) are amended by striking out “, a capacity market participant”.

- (i) *the Electric Utilities Act, the regulations under that Act, the ISO rules, reliability standards, market rules and any arrangements entered into under the Electric Utilities Act or the regulations under that Act,*
- (ii) *the Renewable Electricity Act, the regulations under that Act and any renewable electricity support agreements entered into under that Act, and*
- (iii) *a decision, order or rule of the Commission;*
- (d) *whether or not 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 and the capacity 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, the capacity market and the natural gas market and shall make those guidelines public.

(4) Section 46(1) presently reads in part:

46(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, a capacity market participant or a natural gas market participant, the Independent System Operator or the Balancing Pool;*
- (f) *request access to operate or request the operation of any computer system of an electricity market participant, a capacity market participant or a 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.*

(5) Section 59(1) is amended

- (a) in clause (d) by striking out “, capacity market participants”;**
- (b) in clause (f) by striking out “, the capacity market”.**

(6) Section 80(3) to (13) are repealed.

(5) Section 59 presently reads in part:

59(1) The Minister may make regulations

- (d) respecting the records, reports or other information to be provided to the Market Surveillance Administrator by electricity market participants, capacity 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;*
- (f) respecting conduct or any other matter relating to or that supports the fair, efficient and openly competitive operation of the electricity market, the capacity market or the natural gas market, including approaches or measures to mitigate market power.*

(6) Section 80(3) to (13) presently read:

(3) Any proceeding of the Board for which a notice of hearing has been issued and which has not been 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)(a), (g) or (h) 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)(a), (g) or (h), 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)(a), (g) or (h) after the expiration of 5 years from the day that this section comes into force, but any regulation made under subsection (7)(a), (g) or (h) 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).*

(7) Section 81 is repealed.

(8) The following sections are amended by striking out “, the capacity market”:

section 42(1)(c);
section 51(1)(a)(iv);
section 56(3)(a)(iv) and (4)(a)(ii).

Electric Utilities Act

Amends SA 2003 cE-5.1

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

(2) Section 1 is amended

(a) in subsection (1)

(i) by repealing clauses (d.1) to (d.6);

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

(e.1) “Commission business day” means any day from Monday to Friday, excluding holidays and other days on which the Commission is not open for business;

(iii) in clause (i) by striking out “a market participant” and substituting “an electricity market participant”;

(7) Section 81 presently reads:

81(1) The Lieutenant Governor in Council may make regulations for the purpose of

- (a) amending references in regulations to the Alberta Energy and Utilities Board, the Energy Resources Conservation Board and the Public Utilities Board, or*
- (b) adding references to the Alberta Utilities Commission or the Energy Resources Conservation Board*

in consequence of the enactment of this Act.

(2) An amendment under subsection (1) may be made even if the regulation being amended was made by a member of the Executive Council or some other body or person.

(8) Update of terminology.

Electric Utilities Act

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

(2) Section 1 presently reads in part:

1(1) In this Act,

- (d.1) “business day” means a day other than a Saturday or a holiday as defined in the Interpretation Act;*
- (d.2) “capacity” with respect to the capacity market means the ability to supply electric energy or reduce electric energy consumption as measured in megawatts;*
- (d.3) “capacity auction” means a capacity auction referred to in section 41.44;*
- (d.4) “capacity market” means the capacity market established by the ISO rules;*

(iv) in clause (p.1) by striking out “, but does not include the capacity market”;

(v) by repealing clauses (dd), (ee) and (ss.2);

(vi) by repealing clause (yy) and substituting the following:

(yy) “system access service” means the service obtained by electricity market participants through a connection to the transmission system, and includes access to exchange electric energy and ancillary services;

(b) in subsection (2)(d) by striking out “section 19, 20 or 41.42 or the regulations” and substituting “section 19 or 20 or the regulations”.

- (d.5) *“capacity market participant” means a capacity market participant within the meaning of the ISO rules;*
- (d.6) *“capacity payment” means a payment referred to in section 41.45;*
 - (i) *“dispatch” means a direction from the Independent System Operator to a market participant to cause, permit or alter the exchange of electric energy or ancillary services;*
- (p.1) *“electricity market” means any type of market through or under which an offer, purchase, sale, trade or exchange of electricity, electric energy, electricity services or ancillary services takes place in relation to the production or consumption of electricity, electric energy, electricity services or ancillary services, but does not include the capacity market;*
- (dd) *“market” means the electricity market or the capacity market;*
- (ee) *“market participant” means an electricity market participant or a capacity market participant;*
- (ss.2) *“resource adequacy standard” means the resource adequacy standard established by the Minister in regulations made under section 41.46;*
- (yy) *“system access service” means the service obtained by market participants through a connection to the transmission system, and includes*
 - (i) *access to exchange electric energy and ancillary services, and*
 - (ii) *access to capacity;*
- (2) *A reference in this Act to*
 - (d) *“ISO rules” means the rules made by the Independent System Operator under section 19, 20 or 41.42 or the regulations;*

(3) Section 5 is amended

- (a) in clauses (b) and (c) by striking out “market for electricity” and substituting “electricity market”;**
- (b) by repealing clause (c.1);**
- (c) in clause (e) by adding “electricity” before “market”.**

(4) Section 6(2) is repealed.

(3) Section 5 presently reads in part:

5 The purposes of this Act are

- (b) to provide for a competitive power pool so that an efficient market for electricity based on fair and open competition can develop, where all persons wishing to exchange electric energy through the power pool may do so on non-discriminatory terms and may make financial arrangements to manage financial risk associated with the pool price;*
- (c) to provide for rules so that an efficient market for electricity based on fair and open competition can develop in which neither the market nor the structure of the Alberta electric industry is distorted by unfair advantages of government-owned participants or any other participant;*
- (c.1) to provide for a capacity market to ensure that a reliable supply of electricity is available at reasonable cost to customers, and for rules governing the establishment and operation of the capacity market to ensure*
 - (i) that the capacity market is efficient and based on fair and open competition and is not distorted by unfair advantages of government-owned participants or any other participants, and*
 - (ii) that the costs of procuring capacity are reasonable and are distributed among customers fairly and in a manner that provides incentives for economic efficiency;*
- (e) to enable customers to choose from a range of services in the Alberta electric industry developed by a competitive market, and to receive satisfactory service;*

(4) Section 6(2) presently reads:

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

(5) Section 16 is amended

- (a) in subsection (1) by striking out “market for electricity” and substituting “electricity market”;**
- (b) by repealing subsection (1.1).**

(6) Section 17 is amended

- (a) by repealing clause (b) and substituting the following:**
 - (b) to facilitate the operation of electricity markets in a manner that is fair and open and that gives all electricity market participants wishing to participate in those electricity markets and to exchange electric energy a reasonable opportunity to do so;
- (b) in clause (i) by adding “electricity” before “market participants”;**
- (c) by repealing clause (l.01);**
- (d) in clause (l.1) by adding “electricity” before “market participants”.**

(5) Section 16 presently reads in part:

16(1) The Independent System Operator must exercise its powers and carry out its duties, responsibilities and functions in a timely manner that is fair and responsible to provide for the safe, reliable and economic operation of the interconnected electric system and to promote a fair, efficient and openly competitive market for electricity.

(1.1) The Independent System Operator must exercise its powers and carry out its duties, responsibilities and functions with respect to the capacity market in a timely manner that is fair and responsible to ensure that a reliable supply of electricity is available at reasonable cost to customers and to promote a fair, efficient and openly competitive capacity market.

(6) Section 17 presently reads in part:

17 The Independent System Operator has the following duties:

(b) to facilitate the operation of markets for electric energy in a manner that is fair and open and that gives all market participants wishing to participate in those markets and to exchange electric energy a reasonable opportunity to do so;

(i) to assess the current and future needs of market participants and plan the capability of the transmission system to meet those needs;

(1.01) in respect of the capacity market,

(i) to establish and operate the capacity market in a manner that is fair and open,

(ii) to assess the current and future energy needs of Alberta's electricity customers in order to procure capacity to meet the requirements of the resource adequacy standard,

(iii) to conduct capacity auctions to procure capacity to meet the requirements of the resource adequacy standard,

(iv) to carry out financial settlement in respect of the capacity market, and

(v) to manage and recover the costs of the capacity market;

(1.1) to monitor the compliance of market participants with ISO rules and rules made under section 24.1;

(7) Section 20.2(2) is amended by adding “Commission” before “business days”.

(8) Section 20.21 is amended

(a) in subsection (2)

(i) in clause (a)

(A) in subclause (ii) by striking out “the market to which it relates” and substituting “the electricity market”;

(B) by adding “and” at the end of subclause (iii);

(ii) by repealing clause (b);

(b) by repealing subsection (3);

(c) in subsection (6) by adding “Commission” before “business days”;

(d) by repealing subsection (9).

(7) Section 20.2 presently reads in part:

20.2(1) On making an ISO rule, the Independent System Operator must file the ISO rule with the Commission for the Commission's approval.

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

(8) Section 20.21 presently reads in part:

(2) The Commission may approve an ISO rule filed under section 20.2 or 20.6 only if the Commission is satisfied

(a) that the ISO rule

(ii) supports the fair, efficient and openly competitive operation of the market to which it relates, and

(iii) is in the public interest,

(b) if the ISO rule relates to the capacity market, that the ISO rule

(i) supports ensuring a reliable supply of electricity is available at reasonable cost to customers, and

(ii) does not conflict with and is not inconsistent with the regulations made under Part 2.2,

(3) The Commission may, in the order approving an ISO rule made under section 41.42, provide that the ISO rule applies to capacity market participants that participated in a capacity auction specified in the order with respect to any or all matters relating to or arising from the capacity market participants' participation in that capacity auction if the Commission is satisfied that doing so would support the fair, efficient and openly competitive operation of the capacity market and is in the public interest.

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

(9) An ISO rule that took effect under section 20.22 ceases to have effect under section 20.22 as follows:

(9) Sections 20.22 and 20.23 are repealed.

- (a) *if the ISO rule is approved under subsection (1)(a), the ISO rule ceases to have effect under section 20.22 on the date the ISO rule takes effect under subsection (7);*
- (b) *if the ISO rule is approved subject to revision under subsection (1)(b), the ISO rule ceases to have effect under section 20.22 on the earlier of*
 - (i) *the date the revised ISO rule takes effect under subsection (8), and*
 - (ii) *the date specified in the order approving the ISO rule subject to revision in the event that the Commission is not satisfied that the ISO rule has been revised in accordance with the directions set out in the order by that date;*
- (c) *if approval of the ISO rule is refused under subsection (1)(c), the ISO rule ceases to have effect on the later of*
 - (i) *the date of the order refusing to approve the ISO rule, and*
 - (ii) *the date specified in the order refusing to approve the ISO rule.*

(9) Sections 20.22 and 20.23 presently read:

20.22(1) Section 20.2(4) does not apply with respect to the first set of ISO rules made by the Independent System Operator as required by section 41.42(3) and filed under section 20.2.

(2) Notwithstanding anything in section 20.21, on the Independent System Operator filing the first set of ISO rules made by the Independent System Operator as required by section 41.42(3), the Commission shall make an order setting out which of those rules, if any, it will consider for provisional approval under this section.

(3) A decision under subsection (2) may not be appealed under section 29 of the Alberta Utilities Commission Act.

(4) If the Commission decides to consider an ISO rule under this section, the Commission must, within 6 months after the date on which the ISO rule is filed, by order,

- (a) *provisionally approve the ISO rule,*
- (b) *direct the Independent System Operator to revise the ISO rule or a provision of the ISO rule and provisionally approve the*

ISO rule subject to the Commission being satisfied that the ISO rule has been revised by the Independent System Operator, in accordance with the directions set out in the order, by the date set out in the order, or

(c) direct that the ISO rule will be considered under section 20.21 if, in the Commission's opinion, the ISO rule is not essential for the establishment or operation of the capacity market.

(5) The Commission may provisionally approve an ISO rule referred to in subsection (2) only if it appears to the Commission that

(a) the ISO rule

(i) is not technically deficient,

(ii) supports the fair, efficient and openly competitive operation of the capacity market,

(iii) is in the public interest,

(iv) supports ensuring a reliable supply of electricity is available at reasonable cost to customers, and

(v) does not conflict with and is not inconsistent with the regulations made under section 41.46,

and

(b) that the Independent System Operator, in developing the rule, complied with the Commission rules made under section 20.9.

(6) An ISO rule that is provisionally approved under subsection (4)(a) takes effect on the later of

(a) the date specified in the ISO rule,

(b) the date of the order provisionally approving the ISO rule, and

(c) the date specified in the order provisionally approving the ISO rule.

(10) Section 20.6 is amended

- (a) in subsections (2)(a) and (b) and (6) by adding
“Commission” before “business days”;**
- (b) by repealing subsection (7).**

(7) If the Commission confirms, in a manner determined by the Commission, that it is satisfied that an ISO rule has been revised in accordance with the directions set out in an order under subsection (4)(b), the revised ISO rule takes effect on the later of

- (a) the date on which the revised ISO rule is filed,*
- (b) the date specified in the revised ISO rule, and*
- (c) the date specified by the Commission by order.*

(8) Subject to section 20.23(3), no appeal may be made under section 29 of the Alberta Utilities Commission Act in respect of a decision under subsection (4).

(9) Subject to section 20.23(3), no complaint may be made under section 25 in respect of an ISO rule that is in effect under this section.

20.23(1) Within 24 months after the day on which an ISO rule referred to in section 20.22(2) is filed, the Commission shall consider the ISO rule under section 20.21 and make an order respecting the rule under section 20.21.

(2) Subsection (1) does not apply to an ISO rule that, under section 20.22(4)(c), the Commission directed to be considered under section 20.21.

(3) Section 20.22(8) and (9) cease to apply with respect to an ISO rule that is provisionally approved under section 20.22 on the earlier of

- (a) an order being made with respect to the ISO rule under section 20.21(1), and*
- (b) 24 months after the day on which the ISO rule was filed.*

(10) Section 20.6 presently reads in part:

(2) The Commission shall consider and make an order with respect to an ISO rule filed under subsection (1)

- (a) within 2 business days after the date the ISO rule is filed if, in the material filed with respect to the ISO rule, the Independent System Operator indicates that a matter that is addressed in the ISO rule is urgent and affects the reliable*

(11) Section 20.8 is amended by striking out “A market participant” and substituting “An electricity market participant”.

(12) Section 20.9 is amended

- (a) in clause (a) by adding “electricity” before “market participants”;**
- (b) in clause (b)(iii) by striking out “, 20.22”.**

(13) Section 21 is amended

- (a) in subsection (1) by adding “electricity” before “market participants”;**

supply of electricity or the safe and reliable operation of the interconnected electric system, or

(b) within 5 business days after the date on which the ISO rule is filed in any other case.

(6) The Commission shall, not later than 5 business days after the day an ISO rule is filed under this section, begin to consider the ISO rule in accordance with section 20.21.

(7) This section does not apply to a first ISO rule relating to the capacity market made as required under section 41.42(3).

(11) Section 20.8 presently reads:

20.8 A market participant must comply with

(a) the ISO rules that are in effect, and

(b) the reliability standards.

(12) Section 20.9 presently reads in part:

20.9 Subject to any regulations under section 41(1)(a.1), the Commission

(a) shall make rules requiring the Independent System Operator to consult with market participants, the Market Surveillance Administrator and other interested parties in developing ISO rules, and

(b) may make rules governing the making of ISO rules, including, without limitation, rules

(iii) respecting the requirements that the Independent System Operator must meet to satisfy the Commission with respect to the matters referred to in sections 20.21, 20.22 and 20.6.

(13) Section 21 presently reads in part:

21(1) The Independent System Operator must establish and charge fees payable by market participants

(a) for the exchange of electric energy through the power pool,

- (b) in subsections (3) and (4) by striking out “A market participant” and substituting “An electricity market participant”;**
- (c) in subsection (5) by adding “electricity” before “market participant”.**

(14) Section 21.1 is amended by striking out “a market participant” and substituting “an electricity market participant”.

(15) Section 22 is amended

- (a) in subsection (1) by striking out “a market participant” and substituting “an electricity market participant”;**
- (b) in subsection (2)**
 - (i) by striking out “a market participant” and substituting “an electricity market participant”;**
 - (ii) by striking out “the market participant” wherever it appears and substituting “the electricity market participant”.**

(b) *to pay for the aggregate expenditures, costs and expenses shown in the approved budget of the Market Surveillance Administrator and any approved amendment to the budget, and*

(c) *to pay for the costs and expenses of other powers, duties, responsibilities and functions of the Independent System Operator, except costs and expenses recovered under the ISO tariff.*

(3) *A market participant who is charged a fee by the Independent System Operator must pay the fee.*

(4) *A market participant charged a fee by the Independent System Operator may make a complaint to the Commission under section 25.*

(5) *A fee charged by the Independent System Operator is a debt owing by the market participant to the Independent System Operator and in default of payment may be recovered by the Independent System Operator by an action in debt.*

(14) 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 or a reliability standard, the Independent System Operator must refer the matter to the Market Surveillance Administrator.

(15) Section 22 presently reads:

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 63 of the Alberta Utilities Commission Act.

(16) Section 24.1 is amended

(a) in subsection (1)

(i) in clauses (a) and (e) by adding “electricity” before “market participants”;

(ii) by adding “and” at the end of clause (g);

(iii) by repealing clause (g.1);

(b) in subsection (3) by striking out “A market participant” and substituting “An electricity market participant”;

(c) in subsection (4) by striking out “a market participant” and substituting “an electricity market participant”;

(d) in subsection (5)

(i) by striking out “a market participant” in the portion preceding clause (a) and substituting “an electricity market participant”;

(ii) in clauses (a), (b) and (c) by adding “electricity” before “market participant” wherever it appears.

(17) Section 25 is amended

(a) in subsection (1)

(i) by striking out “A market participant” and substituting “An electricity market participant”;

(16) Section 24.1 presently reads in part:

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

- (a) the conduct of load settlement by market participants,*
- (e) the transfer of data among market participants,*
- (g) incentives for efficient performance of load settlement,*
- (g.1) the settlement of the capacity market, and*

(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;*

(17) Section 25 presently reads in part:

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

- (a) about an ISO fee,*

- (ii) by adding “or” at the end of clause (a);**
- (iii) by repealing clause (b) and substituting the following:**
 - (b) about an ISO rule that is in effect on one or more of the following grounds:
 - (i) that the ISO rule is technically deficient;
 - (ii) that the ISO rule does not support the fair, efficient and openly competitive operation of the electricity market;
 - (iii) that the ISO rule is not in the public interest.
- (iv) by repealing clause (c);**
- (b) by repealing subsection (1.1) and substituting the following:**

(1.1) The Market Surveillance Administrator may make a written complaint to the Commission about an ISO rule that is in effect on one or more of the following grounds:

 - (a) that the ISO rule may have an adverse effect on the structure and performance of the electricity market;
 - (b) that the ISO rule does not support the fair, efficient and openly competitive operation of the electricity market;
 - (c) that the ISO rule is not in the public interest.
- (c) in subsection (2) by adding “electricity” before “market participant”;**
- (d) by repealing subsection (4.1) and substituting the following:**

(4.1) Where an electricity market participant files a complaint, the electricity market participant has the onus of proving

 - (a) that the ISO rule is technically deficient,

(b) *about an ISO rule that is in effect, other than an ISO rule made under Part 2.2 that is in effect for a fixed period, on one or more of the following grounds:*

(i) *that the ISO rule is technically deficient;*

(ii) *that the ISO rule does not support the fair, efficient and openly competitive operation of the market to which the rule relates;*

(iii) *that the ISO rule does not support ensuring a reliable supply of electricity is available at reasonable cost to customers, in the case of an ISO rule that relates to the capacity market;*

(iv) *that the ISO rule conflicts with or is inconsistent with the regulations made under Part 2.2, in the case of an ISO rule that relates to the capacity market;*

(v) *that the ISO rule is not in the public interest,*

or

(c) *about an ISO rule made under Part 2.2 that is in effect for a fixed period, on one or more of the following grounds:*

(i) *that there is an urgent concern that the ISO rule is technically deficient;*

(ii) *that there is an urgent concern that the ISO rule does not support the fair, efficient and openly competitive operation of the capacity market;*

(iii) *that there is an urgent concern that the ISO rule is not in the public interest.*

(1.1) The Market Surveillance Administrator may make a written complaint to the Commission

(a) *about an ISO rule that is in effect, other than an ISO rule made under Part 2.2 that is in effect for a fixed period, on one or more of the following grounds:*

(i) *that the ISO rule may have an adverse effect on the structure and performance of the market to which the rule relates;*

- (b) that the ISO rule does not support the fair, efficient and openly competitive operation of the electricity market, or
 - (c) that the ISO rule is not in the public interest.
- (e) by repealing subsection (4.11) and substituting the following:**
- (4.11)** Where the Market Surveillance Administrator files a complaint, the Market Surveillance Administrator has the onus of proving
- (a) that the ISO rule may have an adverse effect on the structure and performance of the electricity market,
 - (b) that the ISO rule does not support the fair, efficient and openly competitive operation of the electricity market, or
 - (c) that the ISO rule is not in the public interest.
- (f) in subsection (6)(b) by striking out “a market participant” and substituting “an electricity market participant”.**

- (ii) that the ISO rule does not support the fair, efficient and openly competitive operation of the market to which the rule relates;*
- (iii) that the ISO rule does not support ensuring a reliable supply of electricity is available at reasonable cost to customers, in the case of an ISO rule that relates to the capacity market;*
- (iv) that the ISO rule is not in the public interest,*

or

- (b) about an ISO rule made under Part 2.2 that is in effect for a fixed period, on one or more of the following grounds:*
 - (i) that there is an urgent concern that the ISO rule is having an adverse effect on the structure and performance of the capacity market;*
 - (ii) that there is an urgent concern that the ISO rule does not support the fair, efficient and openly competitive operation of the capacity market;*
 - (iii) that there is an urgent concern that the ISO rule is not in the public interest.*

(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.

(4.1) Where a market participant files a complaint, the market participant 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 to which the ISO rule relates,*
- (c) that the ISO rule does not support ensuring a reliable supply of electricity is available at reasonable cost to customers, in the case of an ISO rule that relates to the capacity market,*
- (d) that the ISO rule conflicts with or is inconsistent with the regulations made under Part 2.2, in the case of an ISO rule that relates to the capacity market,*

- (e) *that the ISO rule is not in the public interest, or*
- (f) *in the case of an ISO rule made under Part 2.2 that is in effect for a fixed period, that*
 - (i) *there is an urgent concern that the ISO rule is technically deficient,*
 - (ii) *there is an urgent concern that the ISO rule does not support the fair, efficient and openly competitive operation of the capacity market, or*
 - (iii) *there is an urgent concern that the ISO rule is not in the public interest.*

(4.11) Where the Market Surveillance Administrator files a complaint, the Market Surveillance Administrator has the onus of proving

- (a) *that the ISO rule may have an adverse effect on the structure and performance of the market to which the ISO rule relates,*
- (b) *that the ISO rule does not support the fair, efficient and openly competitive operation of the market to which the ISO rule relates,*
- (c) *that the ISO rule does not support ensuring a reliable supply of electricity is available at reasonable cost to customers, in the case of an ISO rule that relates to the capacity market,*
- (d) *that the ISO rule conflicts with or is inconsistent with the regulations made under Part 2.2, in the case of an ISO rule that relates to the capacity market,*
- (e) *that the ISO rule is not in the public interest, or*
- (f) *in the case of an ISO rule made under Part 2.2 that is in effect for a fixed period, that*
 - (i) *there is an urgent concern that the ISO rule is having an adverse effect on the structure and performance of the capacity market,*
 - (ii) *there is an urgent concern that the ISO rule does not support the fair, efficient and openly competitive operation of the capacity market, or*

(18) Section 26(1) is amended by striking out “Subject to the regulations under section 41.46, any” **and substituting** “Any”.

(19) Section 30 is amended

(a) by repealing subsection (2)(a)(ii.1);

(b) in subsection (4) by adding “electricity” before “market participants”.

(20) Section 31 is amended by striking out “A market participant” **and substituting** “An electricity market participant”.

(iii) there is an urgent concern that the ISO rule is not in the public interest.

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

(b) direct the Independent System Operator to reimburse a market participant any fee paid to the Independent System Operator,

(18) Section 26(1) presently reads:

26(1) Subject to the regulations under section 41.46, any person may make a written complaint to the Commission about the conduct of the Independent System Operator.

(19) Section 30 presently reads in part:

(2) The rates to be charged by the Independent System Operator for each class of service must reflect the prudent costs that are reasonably attributable to each class of system access service provided by the Independent System Operator, and the rates must

(a) be sufficient to recover

(ii.1) the costs and expenses of the Independent System Operator associated with the capacity market, including the amounts to be paid by the Independent System Operator for capacity payments,

(4) The Independent System Operator may recover the costs of transmission line losses and the costs of arranging provision of ancillary services acquired from market participants by

(a) including either or both of those costs in the tariff, in addition to the amounts and costs described in subsection (2), in which case the Commission must include in the tariff the additional costs it considers to be prudent, or

(b) establishing and charging ISO fees for either or both of those costs.

(20) Section 31 presently reads:

31 A market participant who obtains system access service must

(a) pay the Independent System Operator the rates prescribed in the ISO tariff, and

(b) comply with the terms and conditions of the tariff.

(21) Section 32 is amended

(a) by repealing clause (b.1);

(b) in clause (f) by striking out “a market participant” and substituting “an electricity market participant”.

(22) Section 36(1) is amended by striking out “a market participant” and substituting “an electricity market participant”.

(23) Part 2.2 is repealed.

(24) Section 118(3) is amended by striking out “and the capacity market”.

(25) Section 119(4) is amended by striking out “and the capacity market in accordance with Part 2 and Part 2.2”.

(26) Section 142 is amended

(a) in subsection (1)

(i) in clause (k) by adding “electricity” before “market participants” wherever it appears;

(ii) in clause (l)

(21) Section 32 presently reads in part:

32 The Independent System Operator must

(b.1) pay the capacity payments required under section 41.45;

(f) pay the prudent costs for other services acquired from a market participant related to the provision of system access service.

(22) Section 36(1) presently reads:

36(1) On receipt of a proposal by a market participant to meet a need identified in the needs identification document, the Independent System Operator may

(a) approve the proposal, with or without conditions or modification, or

(b) refuse the proposal.

(23) Repeals Part 2.2, Capacity Market.

(24) Section 118(3) presently reads:

(3) The Independent System Operator must, with respect to the transmission system and the capacity market, maintain the records and accounts and provide the reports required by the Commission.

(25) Section 119(4) presently reads:

(4) The Independent System Operator must prepare a tariff relating to the transmission system in accordance with Part 2 and the capacity market in accordance with Part 2 and Part 2.2 and apply to the Commission for approval of the tariff.

(26) Section 142 presently reads in part:

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

(k) requiring rates for the ISO's tariff as set out in section 30(3)(a) to apply to market participants in addition to those market participants described in section 30(3)(a);

(l) respecting any aspect of the interconnected electric system, including, without limitation, regulations

- (A) in subclause (v) by adding “electricity” before “market participants”;**
- (B) in subclause (v.9)**
 - (I) by striking out “a market participant” in the portion preceding paragraph (A) and substituting “an electricity market participant”;**
 - (II) in paragraphs (C) and (D) by adding “electricity” before “market participant” wherever it appears;**
- (b) by repealing subsection (2)(c.1).**

- (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.9) *respecting the approval of proposals by the Independent System Operator for the construction and temporary operation of a transmission facility by a market participant and the subsequent transfer to a transmission facility owner, including, but not limited to,*
 - (C) *requiring the market participant and the transmission facility owner to whom the transmission facility will be transferred to enter into an agreement with respect to the transfer of the transmission facility to the transmission facility owner on the expiry of the temporary period and with respect to the joint operation of the transmission facility by the market participant and the transmission facility owner, or require agreements between them to include other or additional terms,*
 - (D) *providing for who is responsible to pay the costs of liabilities incurred by the transmission facility owner as a result of acts or omissions by the market participant during the design or construction of the transmission facility, and*
- (2) *The Lieutenant Governor in Council may make regulations*
 - (c.1) *conferring or imposing on any person or class of persons engaged in providing capacity in the capacity market any power, duty, responsibility or function necessary to carry out the purposes of this Act with respect to the capacity market;*

(27) Section 147(1)(a) is repealed and the following is substituted:

- (a) each municipality that
 - (i) owns a retailer,
 - (ii) holds a power purchase arrangement, or
 - (iii) holds an agreement or arrangement derived from a power purchase arrangement that includes the right to exchange electric energy and ancillary services;

(28) The following provisions are amended by adding “electricity” before “market participants” wherever it appears:

section 18(1);
section 20(1)(k);
section 20.81;
section 29;
section 35(1)(b);
section 81.

Hydro and Electric Energy Act

Amends RSA 2000 cH-16

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

(2) Section 3(1) is amended

- (a) by adding “and” at the end of clause (c.1);
- (b) by repealing clause (c.2).

(27) Section 147(1)(a) presently reads:

147(1) In this section, “municipal entity” means

(a) each municipality that

(i) owns a retailer,

(ii) holds a power purchase arrangement,

(iii) holds an agreement or arrangement derived from a power purchase arrangement that includes the right to exchange electric energy and ancillary services, or

(iv) is a capacity market participant;

(28) Update of terminology.

Hydro and Electric Energy Act

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

(2) Section 3(1) presently reads:

3(1) Where the Commission 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 Commission, for the purposes of the consideration required to be given by the Commission under section 17 of the Alberta Utilities

Commission Act and in order to determine whether the purposes of this Act will be achieved,

- (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,*
- (c.1) shall not have regard to whether the generating unit is the subject of a renewable electricity support agreement under the Renewable Electricity Act,*
- (c.2) shall not have regard to whether the generating unit is a generating unit that will produce electric energy to meet the obligations of a successful bidder in a capacity auction under Part 2.2 of the Electric Utilities Act, and*
- (d) must have regard for the purposes of the Electric Utilities Act.*

