

1995 BILL 34

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Third Session, 23rd Legislature, 44 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 34**

**ELECTRIC UTILITIES ACT**

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MR. MAGNUS

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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Sessional Paper 965/95.  
3 Session, 23 Legislature

GOVERNMENT AMENDMENT: May 9, 1995

AMENDMENTS TO BILL 34

ELECTRIC UTILITIES ACT

Agreed to  
May 9/95  
11:00 a.m.  
[Signature]

*The Bill is amended as follows:*

A Section 37(3) is amended by striking out "for each hour in 1996 and in" and substituting "for 1996 and for".

B Section 45 is struck out and the following is substituted:

Permissible  
Interests held  
by a  
municipality in  
a generating  
unit

45(1) No municipality or subsidiary of a municipality shall hold, directly or indirectly, an interest in a generating unit except in accordance with any or all of the provisions of this section.

(2) If a municipality or a subsidiary of a municipality has an interest in a generating unit on May 1, 1995, that municipality or subsidiary may continue to hold that interest after May 1, 1995 if the generating capacity of the unit does not increase significantly beyond its capacity on that date.

(3) The City of Medicine Hat or a subsidiary of that municipality may hold an interest in a generating unit if the generating capacity of that unit and all other generating units in which that municipality or subsidiary has an interest does not exceed the capacity that is needed to reliably meet the requirements of consumers of electricity in the service area of the electric distribution system owned by that municipality or subsidiary.

(4) A municipality or a subsidiary of a municipality may hold an interest in a generating unit located within the boundaries of the municipality if the generating unit is part of a process that is carried out on property of which the municipality or subsidiary is the owner or tenant and the electric energy produced by the unit is incidental to the main purpose of that process.

## BILL 34

1995

### ELECTRIC UTILITIES ACT

(Assented to , 1995)

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Schedule

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

## PART 1

### GENERAL MATTERS

Interpretation 1(I) In this Act,

- (a) "Board" means the Alberta Energy and Utilities Board established under the *Alberta Energy and Utilities Board Act*;
- (b) "Crown" means the Crown in right of Alberta and includes an agent of that Crown;
- (c) "dispatch" means a direction from a person appointed under section 9(1)(c)
  - (i) in the case of a generating unit other than a non-dispatchable generating unit, to the operator of the generating unit to cause a specified amount of electric energy or system support services to be provided by the generating unit to the interconnected electric system in a specified period, or
  - (ii) in the case of a non-dispatchable generating unit, to the operator of the generating unit to permit electric energy or system support services to be provided by the generating unit to the interconnected electric system in a specified period;
- (d) "electric distribution system" means the plant, works, equipment, systems and services necessary to distribute electricity in a service area, but does not include a generating unit or a transmission facility;
- (e) "electric energy" means the capability of electricity to do work, measured in kilowatt hours;
- (f) "electric utility" means
  - (i) a regulated generating unit,
  - (ii) a transmission facility, or
  - (iii) an electric distribution system,that is used, directly or indirectly, for the public, but does not include
  - (iv) a generating unit not listed in the Schedule,

- (v) a transmission facility owned by a municipality or a subsidiary of a municipality, other than the City of Edmonton, unless the municipality passes a bylaw under section 59,
  - (vi) an electric distribution system owned by a municipality or a subsidiary of a municipality, unless the municipality passes a bylaw under section 59,
  - (vii) an arrangement of conductors intended to distribute electricity solely on property of which a person is the owner or a tenant, for use solely by that person and solely on that property, or
  - (viii) a facility exempted by the Board pursuant to section 73(4);
- (g) "electricity" means electric energy, electric power, reactive power or any other electromagnetic effects associated with alternating current or high voltage direct current electric systems;
- (h) "eligible person" means any of the following:
- (i) the owner of a generating unit;
  - (ii) the owner of an electric distribution system;
  - (iii) the Transmission Administrator;
  - (iv) an importer of electric energy to Alberta or an exporter of electric energy from Alberta if and to the extent that the arrangements governing the exchange of electric energy and system support services between the interconnected electric system in Alberta and electric systems in jurisdictions bordering Alberta allow for importers and exporters;
- (i) "entitled electric distribution system" means an electric distribution system that is owned by any of the following:
- (i) Alberta Power Limited;
  - (ii) TransAlta Utilities Corporation;
  - (iii) the City of Calgary;
  - (iv) the City of Edmonton;
  - (v) the City of Lethbridge;

(vi) the City of Red Deer;

and is subject to the obligations and entitled to the entitlements set out in Part 4;

- (j) "exchange" means to provide electric energy to or receive electric energy from the interconnected electric system;
- (k) "farm transmission costs", in respect of an electric distribution system, means

- (i) the proportion of its costs of supplying electricity on 25 000 volt lines to the service area boundaries of rural electrification associations that the total electricity supplied to rural electrification association members within those boundaries for farm and farm irrigation purposes bears to the total electricity supplied on those lines, and

- (ii) an equivalent dollar amount per unit of electricity supplied by the electric distribution system to farm and farm irrigation customers who are not members of rural electrification associations;

- (l) "generating unit" means the component of a power plant that produces electric energy from any source and system support services, and includes a share of the following associated facilities that may be used in common with other generating units at a power plant:

- (i) fuel and fuel handling equipment;

- (ii) cooling water facilities;

- (iii) switch yards;

- (iv) other items;

that are necessary for the safe, reliable and economic operation of the generating unit;

- (m) "generation interface" means the high voltage terminal of the generation transformer of one or more generating units;
- (n) "hour" includes any part of an hour as established by the Power Pool Council in accordance with the rules of the power pool;
- (o) "industrial system" has the meaning given to it in the *Hydro and Electric Energy Act*;

- (p) "interconnected electric system" means all transmission facilities and all electric distribution systems in Alberta that are interconnected, but does not include an electric distribution system or a transmission facility that is owned by the City of Medicine Hat or a subsidiary of that municipality unless that municipality passes a bylaw under section 59;
- (q) "Minister" means the Minister of Energy;
- (r) "municipality" means a city, town, village, summer village, municipal district or specialized municipality, a town under the *Parks Towns Act* or a municipality formed by special Act, and includes a Metis settlement;
- (s) "non-dispatchable generating unit" means a generating unit that is determined by a person appointed under section 9(1)(c) to be incapable of providing a specified amount of electric energy to the interconnected electric system in a specified period;
- (t) "owner", in respect of a generating unit, a regulated generating unit, a transmission facility, an electric distribution system or an electric utility, means the owner, operator, manager or lessee of the facility or any person who is acting as an agent for the owner, operator, manager or lessee and, in the event that one of those persons becomes bankrupt or insolvent, includes any trustee, liquidator or receiver appointed in respect of the bankruptcy or insolvency;
- (u) "pay period" means the period established from time to time by the Power Pool Council in respect of which financial settlement is carried out under section 11(b);
- (v) "pool price" means the price reported by a person appointed under section 9(1)(b), in accordance with the rules of the power pool, that reflects the market value of electric energy for an hour;
- (w) "power pool" means the scheme operated by the persons appointed under section 9(1)(b) and (c) for the dispatch and exchange of electric energy and financial settlement for the exchange of electric energy;
- (x) "regulated generating unit" means a generating unit listed in the Schedule

(i) as it exists on the coming into force of this Act, or

- (ii) as modified in accordance with regulations made under section 42,

until it is removed from regulated service;

- (y) "rules of the power pool" means the rules, practices, policies and procedures established by the Power Pool Council under section 9(1)(a) that regulate the operation of the power pool;
- (z) "rural electrification association" means an association under the *Rural Utilities Act* that has as its principal object the supply of electricity to its members;
- (aa) "service area" means the area determined under the *Hydro and Electric Energy Act* in which
  - (i) the owner of an electric distribution system may distribute electricity, or
  - (ii) a rural electrification association may distribute electricity to its members;
- (bb) "system access service" means the service obtained by eligible persons through a local substation connection to the transmission system or the interconnected electric system, and includes access to exchange electric energy through the power pool and access to system support services;
- (cc) "system support services" means the services required to ensure that the interconnected electric system is operated in a manner that provides a satisfactory level of service with acceptable levels of voltage and frequency stability and harmonic content, through the provision of, among other things, any or all of the following:
  - (i) operating reserve and control margin, including
    - (A) generating capacity operating as spinning reserve, and
    - (B) arrangements with electric distribution systems under which the amount of electricity taken by their customers can be reduced on short notice;
  - (ii) generating capacity with fast acting automatic generation control;
  - (iii) generating capacity with controlled excitation, reactive compensators or other equipment required to control transmission voltages;

(iv) fast acting automatic load shedding to maintain system load/generation balance;

(dd) "transmission facility" means an arrangement of conductors and transformation equipment that transmits electricity from the generation interface to the low voltage terminal of the step down transformer operating phase to phase at a nominal high voltage level of more than 25 000 volts to a nominal low voltage level of 25 000 volts or less and includes

(i) transmission lines energized in excess of 25 000 volts,

(ii) insulating and supporting structures,

(iii) substations, transformers and switchgear,

(iv) operational and control devices,

(v) all property of any kind used for the purpose of, or in connection with, the operation of the transmission facility, and

(vi) connections with electric systems in jurisdictions bordering Alberta,

but does not include a generating unit or an electric distribution system;

(ee) "transmission system" means all transmission facilities in Alberta that are part of the interconnected electric system.

(2) For the purposes of this Act, a subsidiary of a municipality is a corporation that

(a) is wholly owned

(i) by the municipality,

(ii) by the municipality and one or more corporations, each of which is wholly owned by the municipality, or

(iii) by one or more corporations, each of which is wholly owned by the municipality,

or

(b) is wholly owned by a subsidiary referred to in clause (a).

Exemptions  
from the  
application of  
this Act

**2 This Act does not apply**

(a) to electric energy produced in the service area of the City of Medicine Hat

(i) by the City of Medicine Hat or a subsidiary of that municipality, or

(ii) by generating units that produce electric energy under contract to the City of Medicine Hat or to a subsidiary of that municipality

for consumption in that service area, unless that municipality passes a bylaw under section 59,

(b) to electric energy produced on property of which a person is the owner or a tenant, for use solely by that person and solely on that property,

(c) to electric energy produced by the following generating units located in the City of Calgary, to the extent of the capacity of those units on January 1, 1996:

(i) Glenmore water treatment facility;

(ii) Bearspaw water treatment facility;

(iii) Turbo Expander,

or

(d) to electric energy exempted by the Board pursuant to section 73(4).

Effect of this  
Act

**3(1) Nothing in this Act requires**

(a) any person to transfer or divest itself of any property owned by it, or

(b) any change in the boundaries of the service area of an electric distribution system.

(2) Agreements existing when this Act comes into force and relating to the generation, transmission, distribution, exchange, purchase or sale of electricity are preserved, unless subsection (3) applies.

(3) An agreement that is existing when this Act comes into force and is expressly or by necessary implication inconsistent with this

Act is deemed to be amended to the extent necessary to make the agreement consistent with this Act.

Immunity from suit

4 No action may be brought against the Crown claiming compensation for any real or perceived loss or damage resulting from the coming into force of this Act.

Limitation on right to buy electricity from any source

5(1) A person wishing to obtain electricity for use on property must buy the electricity from the owner of the electric distribution system in whose service area the property is located.

(2) Subsection (1) does not apply to electric energy produced in accordance with section 2(b) or (d).

Purposes of this Act

6 The purposes of this Act are

(a) to establish a framework that replaces the *Electric Energy Marketing Act* so that averaging of generation costs is phased out as regulated generating units are removed from regulated service and new arrangements are made so that

(i) the benefits of and responsibilities for costs associated with electricity produced by regulated generating units are shared by all consumers of electricity in Alberta, and

(ii) decisions about investing in a regulated generating unit or removing a regulated generating unit or associated property from regulated service are in the interests of all consumers of electricity in Alberta and in the interests of the owner of the regulated generating unit,

(b) to establish a framework that provides for a competitive power pool so that an efficient market for electricity based on fair and open competition can develop where all eligible 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 establish 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,

- (d) to establish a flexible framework so that decisions about pricing and investment for generation of electricity are guided by competitive market forces, and
- (e) to establish a framework so that the Alberta electric industry can be effectively regulated where necessary and in a manner that minimizes the cost of regulation and provides incentives for efficiency.

## PART 2

### POWER POOL

Establishment  
of Power Pool  
Council

7(1) There is established a corporation called the "Power Pool Council", consisting of the following members:

- (a) Alberta Power Limited;
- (b) TransAlta Utilities Corporation;
- (c) the City of Calgary;
- (d) the City of Edmonton;
- (e) the City of Lethbridge;
- (f) the City of Red Deer;
- (g) the City of Medicine Hat;
- (h) the Alberta Federation of REA's Ltd.;
- (i) the Industrial Power Consumers Association of Alberta;
- (j) the Independent Power Producers Society of Alberta;
- (k) the corporations, municipalities, organizations and individuals appointed under subsection (2).

(2) The Lieutenant Governor in Council shall appoint as members of the Power Pool Council such corporations, municipalities, organizations or individuals as may, in the opinion of the Minister, be necessary or desirable to ensure that the membership of the Power Pool Council is representative of persons having a material interest in the operation of the power pool.

(3) Each corporation, municipality and organization that is a member of the Power Pool Council shall nominate an individual to serve as its representative on the Power Pool Council and may nominate different individuals for that purpose from time to time.

(4) The members of the Power Pool Council shall co-operate with each other in good faith to enable and assist the Power Pool Council to carry out its duties and functions.

(5) No member of the Power Pool Council nor any individual who serves as a representative of a member of the Power Pool Council under subsection (3) is liable for any act or omission of a member, a representative of a member, the Power Pool Council or a person appointed under section 9(1)(b) or (c) done or purportedly done under this or any other enactment.

(6) The Power Pool Council is not a Provincial corporation for the purposes of the *Financial Administration Act*, the *Auditor General Act* or any other Act.

Power of  
Power Pool  
Council

8 The Power Pool Council has the power to carry out any duty or function given to it under this or any other enactment.

Duties of the  
Power Pool  
Council

9(1) The Power Pool Council shall

- (a) before October 1, 1995, establish the rules of the power pool,
- (b) before January 1, 1996, appoint a qualified person or persons to carry out the power pool administration function as described in section 11,
- (c) before January 1, 1996, appoint a qualified person or persons to carry out the system control function of the power pool as described in section 12, and
- (d) monitor the performance of the power pool and change the rules of the power pool, if necessary, to promote an efficient, fair and openly competitive market for electricity.

(2) The Power Pool Council shall cause the power pool to be operated in a manner

- (a) that gives all eligible persons wishing to exchange electric energy through the power pool a reasonable opportunity to do so, and
- (b) that is fair to all eligible persons exchanging or wishing to exchange electric energy through the power pool.

(3) The Power Pool Council shall not carry out its duties under subsections (1) and (2) in a manner that is

- (a) inconsistent with or in contravention of this or any other enactment or any law, or
- (b) unjust, unreasonable, unduly preferential or arbitrarily or unjustly discriminatory.

(4) The Power Pool Council shall ensure that the power pool is operated so that no profit or loss results on an annual basis from its operation.

Power of  
appointed  
persons

**10** The person or persons appointed under section 9(1)(b) and (c) have the power to carry out any duty or function given to them under this Act.

Power pool  
administration  
function

**11** A person appointed under section 9(1)(b) shall, in accordance with the rules of the power pool,

- (a) determine, according to relative economic merit and having due regard for
  - (i) all available sources of electric energy in Alberta,
  - (ii) any arrangements governing the exchange of electric energy and system support services between the interconnected electric system in Alberta and electric systems in jurisdictions bordering Alberta, and
  - (iii) the safe, reliable and economic operation of the interconnected electric system, including consideration for
    - (A) the provision of adequate system support services,
    - (B) constraints on transmission facilities, and
    - (C) transmission line losses,

the order in which electric energy produced by generating units in Alberta is to be dispatched to satisfy the requirements for electricity in Alberta, including scheduled exchanges of electric energy and system support services between the interconnected electric system in Alberta and electric systems in jurisdictions bordering Alberta, for the period established by the Power Pool Council,

- (b) carry out, on behalf of eligible persons exchanging electric energy through the power pool, financial settlement for the electric energy exchanged, including

- (i) reporting the pool price for each hour,
  - (ii) providing, on a timely basis to eligible persons exchanging electric energy through the power pool, any information that may be required to verify financial settlement, and
  - (iii) accounting for the obligations and entitlements, as determined under Part 4, of eligible persons exchanging electric energy through the power pool,
- (c) subject to the approval of the Power Pool Council, fix and vary charges payable by eligible persons exchanging electric energy through the power pool that do not exceed the just and reasonable costs necessary to operate the power pool and the just and reasonable expenses of the Power Pool Council in carrying out its duties under this Act, and
- (d) carry out other duties necessary to operate the power pool.

System control  
function

**12** A person appointed under section 9(1)(c) shall, in accordance with the rules of the power pool,

- (a) ensure that electric energy produced by generating units in Alberta is dispatched in the order determined under section 11(a), to the extent that that order of dispatch is in keeping with the safe, reliable and economic operation of the interconnected electric system,
- (b) ensure that exchanges of electric energy and system support services between the interconnected electric system in Alberta and electric systems in jurisdictions bordering Alberta are consistent with the scheduled exchanges of electricity and system support services established under section 11(a), to the extent that those exchanges are in keeping with the safe, reliable and economic operation of the interconnected electric system,
- (c) give directions to owners of transmission facilities as may be necessary to ensure the safe, reliable and economic operation of the interconnected electric system,
- (d) ensure that adequate levels of system support services, as determined by the Transmission Administrator under section 26(d), are provided to ensure the safe, reliable and economic operation of the interconnected electric system, and
- (e) carry out other duties necessary to operate the power pool.

Participation in  
power pool  
after  
December 31,  
1995

**13(1)** After December 31, 1995,

- (a) all electric energy entering or leaving the interconnected electric system shall be exchanged through the power pool, and
- (b) financial settlement for all electric energy exchanged through the power pool shall be carried out by a person appointed under section 9(1)(b), at the pool price and taking into account the obligations and entitlements determined under Part 4.

**(2)** After December 31, 1995, eligible persons exchanging electric energy through the power pool

- (a) shall pay the charges fixed under section 11(c) relating to the power pool, and
- (b) shall comply with the rules of the power pool.

Prohibition

**14** After December 31, 1995, no person shall intentionally cause or permit electric energy or system support services produced by a generating unit in Alberta to enter the interconnected electric system except in accordance with dispatch.

Pool price not  
to include  
charges

**15** The pool price shall not include any portion of the charges fixed under section 11(c) relating to the power pool.

Complaints

**16(1)** On receipt of a written complaint from a person having an interest, the Board may

- (a) hold any investigation it considers appropriate into any matter relating to the Power Pool Council, the power pool or a person appointed under section 9(1)(b) or (c),
- (b) make any order respecting the operation of the power pool that it considers just and reasonable,
- (c) determine the justness and reasonableness of the charges fixed under section 11(c) relating to the power pool and, by order, vary or confirm the charges, and
- (d) disallow or change, as it considers necessary, any of the rules of the power pool that in its opinion are unjust, unreasonable, unduly preferential, arbitrarily or unjustly discriminatory or otherwise inconsistent with or in contravention of this or any other enactment or any law.

- (2) The Board shall not deal with a complaint under subsection (1)
- (a) if the complainant has not attempted to negotiate a settlement of the matter under Part 6, or
  - (b) if the complainant has attempted to negotiate a settlement of the matter under Part 6, but
    - (i) a bad faith certificate has been issued to the complainant pursuant to section 66(f) and has not been withdrawn, and
    - (ii) the Board is of the view that the reasons stated in the bad faith certificate justify the Board's not hearing the complaint until those reasons have been addressed to the satisfaction of the Board.
- (3) The Board may on its own initiative or shall, if directed to do so by the Lieutenant Governor in Council, carry out any of the actions in subsection (1).

### PART 3

#### TRANSMISSION

##### Definitions

- 17 In this Part and in Parts 4 and 5,
- (a) "rates" means prices, rates, tolls and charges that apply to service provided by an electric utility or the Transmission Administrator;
  - (b) "tariff" means a document that sets out
    - (i) rates, and
    - (ii) applicable terms and conditions;
  - (c) "terms and conditions" means the standards, classifications, regulations, practices, measures and terms and conditions that apply to service provided by an electric utility or the Transmission Administrator.

##### Establishment of Electric Transmission Council

- 18(1) There is established a corporation called the "Electric Transmission Council", consisting of the following members:
- (a) Alberta Power Limited;
  - (b) TransAlta Utilities Corporation;

- (c) the City of Calgary;
- (d) the City of Edmonton;
- (e) the City of Lethbridge;
- (f) the City of Red Deer;
- (g) the City of Medicine Hat;
- (h) the Alberta Federation of REA's Ltd.;
- (i) the Industrial Power Consumers Association of Alberta;
- (j) the Independent Power Producers Society of Alberta;
- (k) the Alberta Association of Municipal Districts and Counties;
- (l) the Alberta Irrigation Projects Association;
- (m) Public Institutional Consumers of Alberta;
- (n) the corporations, municipalities, organizations and individuals appointed under subsection (2).

(2) The Lieutenant Governor in Council shall appoint as members of the Electric Transmission Council such corporations, municipalities, organizations or individuals as may, in the opinion of the Minister, be necessary or desirable to ensure that the membership of the Electric Transmission Council is representative of persons having a material interest in the Alberta electric industry.

(3) Each corporation, municipality and organization that is a member of the Electric Transmission Council shall nominate an individual to serve as its representative on the Electric Transmission Council and may nominate different individuals for that purpose from time to time.

(4) No member of the Electric Transmission Council nor any individual who serves as a representative of a member of the Electric Transmission Council under subsection (3) is liable for any act or omission of a member, a representative of a member, the Electric Transmission Council or the Transmission Administrator done or purportedly done under this or any other enactment.

(5) The Electric Transmission Council is not a Provincial corporation for the purposes of the *Financial Administration Act*, the *Auditor General Act* or any other Act.

Power of  
Electric  
Transmission  
Council

19 The Electric Transmission Council has the power to carry out any duty or function given to it under this or any other enactment.

Duties of the  
Electric  
Transmission  
Council

20(1) The Electric Transmission Council shall make available to its members, the Transmission Administrator, the owners of transmission facilities and other persons having an interest, information relating to the transmission system, including any non-confidential information that it receives from its members, the Transmission Administrator or owners of transmission facilities.

(2) The Electric Transmission Council may advise and make recommendations to owners of transmission facilities and the Transmission Administrator

(a) regarding proposed modifications of or additions to the transmission system,

(b) regarding planning for future modifications of or additions to the transmission system, and

(c) regarding any matter concerning the transmission system or its operation including tariffs.

(3) The Electric Transmission Council may provide to the Board any non-confidential information from any of its meetings or proceedings or, subject to Part 6, any records or information used in or resulting from a negotiated settlement under Part 6.

Appointment  
of the  
Transmission  
Administrator

21 Before January 1, 1996, the Lieutenant Governor in Council shall, after consulting with the Electric Transmission Council, appoint a qualified person or persons to act as the Transmission Administrator.

Power of the  
Transmission  
Administrator

22 The Transmission Administrator has the power to carry out any duty or function given to it under this Act.

No bypass of  
Transmission  
Administrator

23 The Transmission Administrator is the sole provider of system access service on the interconnected electric system.

Access to the  
transmission  
system

24 The Transmission Administrator shall provide system access service on the interconnected electric system in a manner that gives all eligible persons wishing to exchange electric energy through the power pool a reasonable opportunity to do so.

Duty to pay  
rates

**25** Eligible persons receiving system access service shall pay the rates of the Transmission Administrator for that service.

Duties of the  
Transmission  
Administrator

**26** The Transmission Administrator shall

- (a) make prudent financial arrangements so that adequate transmission facilities are available to enable the Transmission Administrator to provide system access service and shall ensure that those arrangements are carried out,
- (b) pay the cost associated with transmission line losses and make prudent arrangements to manage the financial risk associated with the cost of the losses,
- (c) enter into, in accordance with the regulations, arrangements governing the exchange of electric energy and system support services between the interconnected electric system in Alberta and electric systems in jurisdictions bordering Alberta,
- (d) set reasonable standards and requirements for system support services and make prudent financial arrangements so that system support services are available and shall ensure that those arrangements are carried out,
- (e) pay incremental generation costs that arise from constraints on transmission facilities and make prudent arrangements to manage the financial risk associated with the costs,
- (f) ensure that the arrangements entered into under clauses (b), (c), (d) and (e) are communicated to the persons appointed under section 9(1)(b) and (c), and
- (g) pay farm transmission costs.

Rates for  
system access  
service

**27(1)** The Transmission Administrator shall prepare a single tariff setting out

- (a) the rates to be charged by the Transmission Administrator for each class of system access service, including rates prepared in accordance with the regulations to be charged pursuant to the arrangements referred to in section 26(c), and
- (b) the terms and conditions that apply to each class of system access service provided by the Transmission Administrator to persons connected to the transmission system, including

(i) terms and conditions, prepared in accordance with the regulations, that apply pursuant to the arrangements referred to in section 26(c), and

(ii) standards and requirements set under section 26(d).

(2) The rates set out in the tariff

(a) must reflect the prudent costs that are reasonably attributable to each class of system access service provided by the Transmission Administrator, and

(b) must not be different for owners of electric distribution systems as a result of the location of those systems on the transmission system.

(3) Rates are not unjust or unreasonable simply because they are prepared taking into account subsection (2)(b).

Duties of all  
owners of  
transmission  
facilities and  
others

**28(1)** Each owner of a transmission facility shall use reasonable efforts to operate its transmission facility in co-operation and conjunction with the owners of other transmission facilities through the direction of a person appointed under section 9(1)(c).

(2) Each owner of a transmission facility is responsible for maintaining the integrity of its transmission facility so that it can be used by the Transmission Administrator to provide system access service.

(3) The owners of transmission facilities, other members of the Electric Transmission Council and the Transmission Administrator shall co-operate with each other in good faith to enable and assist the Electric Transmission Council to carry out its duties and functions.

Rates for  
transmission  
facilities

**29(1)** Each owner of a transmission facility shall prepare a tariff setting out the rates to be paid by the Transmission Administrator to the owner for the use of the facility.

(2) Subsection (1) does not apply if the transmission facility is not an electric utility.

Rates for  
transmission  
facilities  
owned by  
municipalities

**30(1)** The Minister shall determine the rates to be paid by the Transmission Administrator to the owner of a transmission facility for the use of the facility where

(a) the owner is a municipality, or a subsidiary of a municipality, other than the City of Edmonton and the City of Medicine Hat, and

(b) the municipality has not passed a bylaw under section 59.

(2) The Minister shall determine rates under subsection (1) for 10 years beginning on January 1, 1996 and in determining the rates the Minister shall have regard for section 51.

(3) Rates determined under this section are deemed to satisfy the requirements of Part 5.

Joint tariff

**31(1)** One or more owners of transmission facilities may agree with the Transmission Administrator to prepare one joint tariff that sets out the rates and the terms and conditions referred to in section 27(1) and the rates referred to in section 29(1).

(2) The Board shall consider a joint tariff prepared under this section when an application for approval of the tariff is made under section 49.

## PART 4

### GENERATION

Unit obligation  
amounts

**32(1)** The Lieutenant Governor in Council may make regulations respecting the determination of the unit obligation amounts for each regulated generating unit.

(2) The unit obligation amounts for a regulated generating unit must be set so as to allow the owner of the regulated generating unit, over time, a reasonable opportunity to pay the unit obligation values calculated under section 34 for that unit from net revenues derived from exchanging electric energy produced by that unit through the power pool, by operating the unit in a prudent manner.

(3) A unit obligation amount, measured in units of electric energy, must be determined for each hour in 1996.

(4) The unit obligation amounts determined for 1996 apply for each year after 1996 until the unit is removed from regulated service, unless subsection (5) or (6) applies.

(5) Regulations made under subsection (1)

(a) until December 31, 1997, may be amended after the Minister has consulted with the committee established under section 39, and

(b) after December 31, 1997, may only be amended in accordance with subsection (6).

(6) After December 31, 1997, the Board may, if it considers it to be in the interests of all consumers of electricity in Alberta and in the interests of the owner of the regulated generating unit, make an order that has the effect of altering the unit obligation amounts for the regulated generating unit, and in that event the regulations referred to in subsection (1) may be amended to reflect the Board's order.

Unit obligation  
price

**33(1)** Each owner of a regulated generating unit shall prepare a tariff setting out the unit obligation price for the generating unit.

(2) The unit obligation price must reflect the prudent variable cost, per unit of electric energy, associated with meeting the unit obligation amounts determined under section 32 for that generating unit.

Unit obligation  
value

**34(1)** Each owner of a regulated generating unit has an obligation to pay, through financial settlement under section 11(b), the unit obligation value, which is the share of the amount calculated under subsection (2) for each hour in a pay period that is proportionate to that owner's interest in the regulated generating unit.

(2) The amount to be paid under subsection (1) is calculated by multiplying the unit obligation amount determined under section 32 for that generating unit for the hour by the difference calculated by subtracting

(a) the unit obligation price determined under section 33 for that generating unit

from

(b) the pool price reported for that hour.

(3) If, in any hour, the unit obligation price referred to in subsection (2)(a) is greater than the pool price referred to in subsection (2)(b), the amount payable by the owner under subsection (1) for that hour is \$0.

Entitlements

**35(1)** Each owner of an entitled electric distribution system and the Transmission Administrator are entitled to receive for each hour in a pay period, through financial settlement under section 11(b), credit for an amount equal to that person's percentage share of the sum of the unit obligation values paid under section 34 for all regulated generating units.

- (2) The Lieutenant Governor in Council may make regulations
  - (a) respecting the setting of the percentage shares for each owner of an entitled electric distribution system and for the Transmission Administrator, and
  - (b) setting a year for the purposes of subsection (3).
- (3) The percentage shares must be set for each hour in 1996 and in each subsequent year to and including the year set in the regulations under subsection (2)(b).
- (4) Until December 31, 1997, regulations made under subsection (2)(a) may be amended after the Minister has consulted with the committee established under section 39.
- (5) Any amendment made pursuant to subsection (4) must be consistent with the requirement set out in section 38(1).
- (6) After December 31, 1997, the percentage shares shall not be changed.

Aggregate  
reservation  
price

**36(1)** Each owner of a regulated generating unit shall prepare and include in the tariff referred to in section 33(1) an aggregate reservation price, which the owner is entitled to charge through financial settlement under section 11(b).

- (2) The aggregate reservation price must reflect the following:
  - (a) a unit reservation price for each regulated generating unit in which the owner has an interest, which includes the following:
    - (i) the costs associated with capital and fixed operating costs relating to the generation of electricity from the regulated generating unit to the generation interface if the costs are determined by the Board to be prudently incurred;
    - (ii) any other adjustments, costs or credits in respect of the regulated generating unit that are determined by the Board to be properly allocated to customers;
    - (iii) an allocation, approved by the Board, of the costs of associated facilities that may be used in common with other generating units at a power plant as listed in section 1(1)(l);
  - (b) other costs, as approved by the Board;

(c) costs associated with small power production contracts under the *Small Power Research and Development Act*, as approved by the Board in accordance with the regulations;

(d) costs incurred in the generation of electricity from isolated regulated generating units listed in Part 2 of the Schedule, as approved by the Board in accordance with the regulations.

(3) When all of the regulated generating units, other than isolated regulated generating units listed in Part 2 of the Schedule, owned by a person referred to in subsection (1) have been removed from regulated service, that person shall prepare an aggregate reservation price, which must reflect the costs described in subsection (2)(b), (c) and (d).

Reservation  
payments

37(1) Each owner of an entitled electric distribution system and the Transmission Administrator have an obligation to pay, for each pay period, through financial settlement under section 11(b), an amount equal to that person's percentage share of the sum of all aggregate reservation prices that are allocated to that pay period.

(2) The Lieutenant Governor in Council may make regulations

(a) respecting the setting of the percentage shares for each owner of an entitled electric distribution system and for the Transmission Administrator, and

(b) setting a year for the purposes of subsection (3), which must not be different from the year set in the regulations under section 35(2)(b).

(3) The percentage shares must be set for each hour in 1996 and in each subsequent year to and including the year set in the regulations under subsection (2)(b).

(4) Until December 31, 1997, regulations made under subsection (2)(a) may be amended after the Minister has consulted with the committee established under section 39.

(5) Any amendment made pursuant to subsection (4) must be consistent with the requirement set out in section 38(1).

(6) After December 31, 1997, the percentage shares shall not be changed.

Percentage  
shares

38(1) Regulations made under sections 35(2)(a) and 37(2)(a) must attempt to ensure that the allocation of costs associated with regulated generating units and the transmission system among entitled electric distribution systems is not significantly different from the allocation that would have resulted if this Act and the *Electric Energy Marketing Act Repeal Act* had not come into force.

(2) The comparison of the allocation of costs under this Act with the allocation of costs that would have resulted if this Act and the *Electric Energy Marketing Act Repeal Act* had not come into force shall be made on the basis of a forecast of electricity requirements for entitled electric distribution systems for 1996 and each subsequent year to and including the year set pursuant to section 35(2)(b).

(3) The forecast used for the purpose of making regulations under sections 35(2)(a) and 37(2)(a) for the first time is the forecast that must be used when those regulations are amended.

Advisory  
committee

39(1) Before May 31, 1995, the Minister shall establish a committee pursuant to section 7 of the *Government Organization Act*.

(2) The Minister shall appoint as members of the committee such corporations, municipalities, organizations or individuals as may, in the opinion of the Minister, be necessary or desirable to ensure that the membership of the committee is representative of persons having a material interest in the Alberta electric industry.

(3) Each corporation, municipality and organization that is a member of the committee shall nominate an individual to serve as its representative on the committee and may nominate different individuals for that purpose from time to time.

(4) The Minister shall consult with the committee before any regulation referred to in this Part is made for the first time.

(5) A consultation

(a) relating to regulations made for the first time under sections 32(1), 35(2), 37(2) and 44 must be completed before August 1, 1995, and

(b) relating to regulations referred to in section 42 must be completed before January 1, 1996.

Adjustments to  
entitlements  
and  
reservation  
payments

**40(1)** When an order is made under the *Hydro and Electric Energy Act* reducing the size of the service area of an entitled electric distribution system and that order increases the size of the service area of any other electric distribution system or creates a service area for a new electric distribution system,

- (a) no entitlements are created under section 35, and
- (b) the owner of the electric distribution system whose service area was increased or created shall, for each pay period,
  - (i) pay a share of reservation payments to, and
  - (ii) receive credit for a share of the entitlements fromthe owner of the entitled electric distribution system whose service area was reduced, unless alternative arrangements are made under subsection (3).

(2) The shares described in subsection (1)(b) must be equal to the proportion that the load, during the pay period, in that part of the service area that became part of another electric distribution system's service area or became the service area of a new electric distribution system bears to the overall load, during the same pay period, in that service area as it existed immediately before the order referred to in subsection (1) was made.

(3) The owner of an entitled electric distribution system whose service area is reduced by an order referred to in subsection (1) and the owner of an electric distribution system whose service area was increased or created by that order may agree, with the approval of the Board, as to how the reservation payments are to be made and the entitlements received.

Removal from  
regulated  
service by  
consent

**41(1)** The owner of a regulated generating unit and the owners of entitled electric distribution systems may agree to remove the generating unit from regulated service.

(2) In the course of negotiating the agreement, the owners of entitled electric distribution systems shall consult with their customers.

(3) The agreement must specify any conditions that apply to the removal of the regulated generating unit from service.

(4) The agreement has no effect unless it is approved by the Board.

(5) Before granting approval of the agreement, the Board shall satisfy itself that the agreement is in the interests of all consumers

of electricity in Alberta and in the interests of the owner of the regulated generating unit.

(6) When considering granting approval of the agreement, the Board may take into account any negotiated settlement under Part 6 that relates to the agreement.

Regulations  
respecting  
removal from  
regulated  
service

**42(1)** The Lieutenant Governor in Council may make regulations

- (a) respecting all aspects of the ongoing investment in regulated generating units to maintain their capacity or extend their life,
- (b) respecting all aspects of the removal of regulated generating units and associated property from regulated service, and
- (c) respecting any other matter identified by the Minister.

(2) Regulations made under subsection (1) shall not be amended.

Effect of  
removal from  
regulated  
service

**43** After a regulated generating unit is removed from regulated service, whether pursuant to section 41 or section 42, this Part and Part 5 no longer apply in respect of that unit.

Regulations  
suspending  
the operation  
of this Part

**44(1)** The Lieutenant Governor in Council may make regulations respecting the circumstances in which the operation of this Part, or any provision of it, is suspended as a result of the operations of a regulated generating unit being suspended, curtailed or interfered with.

(2) Until December 31, 1997, regulations made under subsection (1) may be amended after the Minister has consulted with the committee established under section 39.

(3) After December 31, 1997, regulations made under subsection (1) shall not be amended.

Permissible  
interests held  
by a  
municipality in  
a generating  
unit

**45(1)** No municipality or subsidiary of a municipality shall hold, directly or indirectly, an interest in a generating unit except in accordance with this section.

(2) If the City of Edmonton or the City of Medicine Hat or a subsidiary of either municipality has an interest in a generating unit on May 1, 1995, that municipality or subsidiary may continue to hold that interest after May 1, 1995 if the generating capacity of the

unit or a replacement unit does not increase significantly beyond its capacity on that date.

(3) The City of Edmonton or the City of Medicine Hat or a subsidiary of either municipality may hold an interest in a generating unit if the generating capacity of that unit and all other generating units in which that municipality or subsidiary has an interest does not exceed the capacity that, in the Board's opinion, is required by consumers of electricity in the service area of the electric distribution system owned by that municipality or subsidiary.

(4) A municipality or a subsidiary of a municipality may hold an interest in a generating unit located within the boundaries of the municipality if the generating unit is part of a process that is carried out on property of which the municipality or subsidiary is the owner or tenant and the electric energy produced by the unit is incidental to the main purpose of that process.

(5) A municipality or subsidiary of a municipality may hold an interest in a generating unit located within the boundaries of the municipality if

(a) where the generating unit is in existence on May 1, 1995, a majority of the electric energy produced annually by the unit is used solely on the property on which the generating unit is located and solely by the owner or tenant of that property, or

(b) where the generating unit is not in existence on May 1, 1995, a majority of the electric energy produced annually by the unit is used solely on property

(i) on which the generating unit is located, and

(ii) of which the municipality or the subsidiary is the owner or tenant,

and solely by the municipality or the subsidiary.

## PART 5

### REGULATION OF ELECTRIC UTILITIES AND THE TRANSMISSION SYSTEM

#### Division 1 General Matters

Application of  
this Part

46 This Part applies

- (a) to all electric utilities operating in Alberta,
- (b) to all owners of electric utilities operating in Alberta, and
- (c) to all electric utilities owned by the Crown.

Public Utilities  
Board Act

47 The provisions of the *Public 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 apply to the Alberta Energy and Utilities Board as if they were provisions of this Act.

## Division 2 Approval of Tariffs

Duty to keep  
books

48(1) An owner of an electric utility shall, with respect to the electric utility,

- (a) keep books, records and accounts in a manner that provides a reasonable understanding of the operation of the electric utility, including keeping track separately of the costs of
  - (i) regulated generating units,
  - (ii) transmission facilities, and
  - (iii) electric distribution systems,
 as well as common costs, in accordance with rules established by the Board,
- (b) provide annually, and at any other times that the Board requires, a detailed report of finances and operations relating to the electric utility in the form, containing the information and verified in the manner the Board requires, and
- (c) subject to any order of the Board, maintain proper and adequate depreciation, amortization or depletion accounts using any basis or method the Board, on application to it, directs.

(2) The Transmission Administrator shall, with respect to the transmission system, keep the books, records and accounts, provide the report and maintain the accounts required under subsection (1) as those duties relate to the transmission system.

Preparation  
and  
application for  
approval of  
tariff

49(1) The owner of an electric utility shall prepare a tariff relating to the electric utility and apply to the Board for approval of the tariff.

(2) The Transmission Administrator shall prepare a tariff relating to the transmission system and apply to the Board for approval of the tariff.

(3) A tariff must describe how it may change over the period in which it is intended to have effect.

(4) A tariff may provide for maximum rates.

(5) A tariff may provide for increases or decreases in the rates to correspond to

- (a) increases or decreases in fuel costs, taxes or other costs, or
- (b) price indices, rates of inflation or similar measurements.

Duty to  
consider  
application

50(1) On giving notice to interested parties, the Board must consider each application under section 49.

(2) When considering an application, the Board may take into account any settlement negotiated under Part 6 that relates to the application.

Matters Board  
must consider

51(1) When considering whether to approve a tariff that is to have effect after December 31, 1995, the Board shall ensure

- (a) that the tariff is just and reasonable,
  - (b) that the tariff provides for incentives for efficiencies that result in cost savings or other benefits that can be shared in an equitable manner between the electric utility and customers, and
  - (c) that the tariff is not unduly preferential, arbitrarily or unjustly discriminatory or inconsistent with or in contravention of this or any other enactment or any law.
- (2) Tariffs that provide incentives for efficiency are not unjust and unreasonable simply because they provide those incentives.
- (3) The burden of proof to show that a tariff is just and reasonable is on the owner of the electric utility seeking approval of the tariff.

Inclusions in costs

**52(1)** When considering an application under section 49, the Board shall 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 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,

if the costs 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 associated with generation, transmission, exchange or distribution of electricity or associated with the power pool if, in the Board's opinion, they are applicable to the electric utility,
- (c) rates that the owner is required under this Act to pay,
- (d) the costs and expenses applicable to the electric utility that arise out of obligations incurred before January 1, 1996 and that were approved by the Public Utilities Board or the Alberta Energy and Utilities Board before that date if, in the Board's opinion, the costs and expenses continue to be reasonable and prudently incurred, and
- (e) any other prudent costs and expenses that the Board considers appropriate, including a fair allocation of the owner's costs that relate to any or all of the owner's electric utilities.

**(2)** If the electric utility referred to in subsection (1) is an electric distribution system, the costs associated with financial arrangements to manage financial risk associated with the pool price shall not be included under subsection (1) unless the arrangement is, in the Board's opinion, prudently made and the result of a fair and

competitive process carried out in accordance with rules that may be established by the Board.

(3) When the Transmission Administrator is the applicant under section 49, the Board shall have regard for the principle that a tariff approved by it must provide the Transmission Administrator with a reasonable opportunity to recover all of the items referred to in subsection (1) that are applicable to the transmission system.

Retrospective  
tariff

**53** When considering whether to approve a tariff that is to have effect from a date preceding its consideration of the application under section 49, the Board may take into account evidence relating to revenues received and costs incurred by the applicant in the whole of the applicant's fiscal year in which the application is made.

Powers of  
Board

**54(1)** In respect of each application under section 49, the Board may, subject to section 68,

- (a) approve a tariff or any part of it without changes,
- (b) change a tariff or any part of it and approve it with the changes, or
- (c) refuse to approve a tariff or any part of it.

(2) The Board may make a decision under subsection (1) for an interim period specified by the Board.

Tariff has no  
effect unless  
approved

**55** The owner of an electric utility and the Transmission Administrator shall not put into effect a tariff that has not been approved by the Board.

Application for  
approval of  
proposed  
arrangement

**56(1)** The owner of an electric distribution system may apply to the Board for approval of any financial arrangement to manage financial risk associated with the pool price that is intended to have effect after December 31, 1995.

(2) An application under subsection (1) may be part of or separate from an application under section 49.

(3) When considering an application under subsection (1),

- (a) the Board must decide if the arrangement is prudently made, and

- (b) the Board may, where it considers it appropriate, decide if the arrangement is the result of a fair and competitive process carried out in accordance with rules that may be established by the Board.

(4) The Board may approve the arrangement and impose conditions on its approval.

(5) On approval of an arrangement being given, the owner of the electric utility is entitled to recover, in accordance with any conditions imposed under subsection (4), the costs and expenses specified in the arrangement as part of the costs that it may recover under section 52(1)(c).

(6) This section does not apply if the electric distribution system is not an electric utility.

Review of  
rates

**57(1)** Unless section 20 of the *Alberta Energy and Utilities Board Act* applies, no order of the Board approving a tariff shall 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 Transmission Administrator has breached in a material manner a term or condition of the tariff,
- (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, provided that 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 38(1), 39, 56, 77(1) and 79 of the *Public Utilities Board Act* do not apply to the review of an order by the Board under subsection (2).

Duties of  
owners of  
electric utilities  
and the  
Transmission  
Administrator

**58(1)** The owners of electric distribution systems and the Transmission Administrator

- (a) shall provide and maintain service that is safe, adequate and proper, and
- (b) shall not withhold a service that the Board has ordered it to provide.

**(2)** Subsection (1) does not apply to an electric distribution system that is not an electric utility.

**(3)** The owners of electric utilities and the Transmission Administrator shall not act in a manner that is unjust, unreasonable, unduly preferential, arbitrarily or unjustly discriminatory or inconsistent with or in contravention of this or any other enactment or any law.

### **Division 3 Municipally Owned Electric Utilities**

Bylaw bringing  
utility under  
this Act

**59(1)** Any municipality, including the City of Medicine Hat, that owns a transmission facility or an electric distribution system may, by bylaw, provide that the facility or system is an electric utility within the meaning of section 1(1)(f) and therefore governed by this Act and subject to the control and orders of the Board.

**(2)** A bylaw passed under subsection (1) has no effect unless it is approved by the Lieutenant Governor in Council.

Municipality's  
right to impose  
additional  
amounts

**60** Where a bylaw has been passed and approved under section 59, the municipality may, notwithstanding the bylaw or anything in this Act, impose amounts in respect of its electric distribution system that are in addition to the rates approved by the Board if the invoices submitted to the customers of the electric distribution system

- (a) clearly distinguish between the rates that have been approved by the Board and the additional amounts imposed by the municipality, and
- (b) identify the additional amounts imposed by the municipality as a surcharge or tax.

**Division 4**  
**Rights Granted by a Municipality**

Grant of right  
to distribute  
electric energy

**61(1)** A right to distribute electricity granted by a municipality to an owner of an electric distribution system after December 31, 1995 has no effect unless the grant is approved by the Board.

(2) Approval may be given when, after hearing the interested parties or with the consent of the interested parties, the Board determines that the grant is necessary and proper for the public convenience and to properly serve the public interest.

(3) The Board may, in giving its approval, impose any conditions as to construction, equipment, maintenance, service or operation that the public convenience and the public interest reasonably require.

(4) Where a municipality grants a right under subsection (1) to its subsidiary, the grant need not be approved by the Board.

(5) A municipality shall not grant to another municipality or to a corporation controlled by another municipality the right to distribute electricity to customers in the granting municipality, unless the grant

(a) is approved by the Board, and

(b) is authorized by regulations under subsection (6).

(6) On the recommendation of the Minister that a grant under subsection (5) is, in the Minister's opinion, in the public interest, the Lieutenant Governor in Council may make regulations authorizing the grant and respecting any conditions that apply to the grant.

(7) When a municipality wishes to grant a right to distribute electricity under subsection (5) and all of the customers in the granting municipality are located in the service area of the municipality to which the right is to be granted, as that service area exists on the date this Act comes into force, regulations authorizing the grant are not required.

(8) For the purpose of subsection (5), a corporation is controlled by a municipality if the test set in section 1(2) of the *Municipal Government Act* is met.

Approval of  
grant

**62** The Board shall not approve a grant under section 61 unless

(a) it is a term of the grant that the grant does not prevent the Crown from exercising that right,

- (b) the person seeking the grant has satisfied the Board that the proposed scheme for the distribution of electricity is reasonable and sufficient, having regard to the general circumstances, and
- (c) the Board is satisfied that the grant is to the general benefit of the area directly or indirectly affected by it.

Grant to  
person outside  
Alberta

**63(1)** No municipality shall grant to a person that is not subject to the legislative authority of Alberta, a right to operate, manage or control any plant, works, equipment, systems or services for the transmission, delivery or furnishing of electricity, either directly or indirectly, in all or part of the municipality.

(2) Subsection (1) does not apply if the grant contains a provision whereby the person to whom the right is granted agrees to submit its business and operations to the control and supervision of the Board in the same manner and to the same extent as if that person were an owner of an electric utility as defined in this Act.

(3) The provision referred to in subsection (2) shall, before the final granting of the right, be submitted to the Board for its approval.

(4) Any right granted by a municipality in contravention of this section is void.

## PART 6

### NEGOTIATED SETTLEMENT

Definitions

**64** In this Part,

- (a) "issue" means any issue relating to
  - (i) the Power Pool Council, the power pool or a person appointed under section 9(1)(b) or (c),
  - (ii) the Electric Transmission Council, the Transmission Administrator or the transmission system,
  - (iii) any matter relating to the generation or distribution of electricity that arises under this Act, or
  - (iv) any other matter arising under this Act;
- (b) "party" means any person that has an interest in and attempts to negotiate the settlement of an issue in accordance with this Part.

Rules,  
practices and  
procedures for  
negotiating a  
settlement

65(1) The Board shall recognize or establish rules, practices and procedures that facilitate the settlement of an issue.

(2) Before establishing rules, practices and procedures relating to the power pool, the Board shall consult with the Power Pool Council.

(3) Before establishing rules, practices and procedures relating to the transmission system, the Board shall consult with the Electric Transmission Council.

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

Powers of  
Board

66 As part of the rules, practices and procedures referred to in section 65, the Board may

- (a) provide for the appointment of mediators to assist parties in negotiating the settlement of an issue,
- (b) provide for the appointment of employees of the Board, the Public Utilities Board or the Energy Resources Conservation Board as mediators, where requested to do so,
- (c) provide for employees of the Board, the Public Utilities Board or the Energy Resources Conservation Board to attend the settlement process, where requested to do so,
- (d) recognize or establish rules to ensure that the parties to an issue receive
  - (i) adequate notice of the settlement process and the matters in issue,
  - (ii) adequate disclosure of the positions of the parties and the basis for those positions, and
  - (iii) an appropriate opportunity to participate in the settlement process,
- (e) recognize or establish rules governing the extent to which persons who are not parties or classes of persons who are not parties may participate in the settlement of an issue,
- (f) provide that a mediator appointed under this section may issue a bad faith certificate to any party stating

- (i) that, in the mediator's opinion, that party did not participate in the negotiation of a settlement in good faith, and
  - (ii) the mediator's reasons for that opinion,
- (g) provide that, before an issue may become the subject of a hearing before the Board,
- (i) the parties shall attempt to negotiate a settlement of the issue in accordance with the rules, practices and procedures referred to in section 65(1), and
  - (ii) any bad faith certificate issued under clause (f) to the party who later becomes the applicant to the Board must have been withdrawn,
- and
- (h) provide for payment of the costs of negotiating the settlement of an issue under this Part, including by whom and to whom the costs are to be paid.

Board  
approval of a  
settlement

**67(1)** Where a settlement has been negotiated under this Part of an issue that is within the ordinary jurisdiction of the Board, the Board may approve the settlement.

(2) Subject to subsection (3), the Board may require a party to provide to it any documents or information relating to the settlement that it considers appropriate.

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

Limit on Board

**68** The Board shall not approve part of a settlement if the parties have negotiated it on the basis that the settlement is contingent on the Board's accepting the entire settlement.

Limit on Board  
staff

**69** No person acting under section 66(b) or (c) shall participate in any proceedings of the Board arising from or relating to the issue, without the express consent of all the parties to the issue.

Board  
discretion

**70** When considering a settlement negotiated in accordance with this Part, the Board

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

## PART 7

### REGULATIONS, BOARD RULES AND OFFENCES

Regulations

**71(1)** The Lieutenant Governor in Council may make regulations

- (a) amending the list of corporations and other entities set out in sections 7(1) and 18(1) if there is a substantial change in the nature and extent of the interest in the Alberta electric industry of any of those corporations or other entities;
- (b) respecting arrangements governing the exchange of electric energy and system support services between the interconnected electric system in Alberta and electric systems in jurisdictions bordering Alberta for the purposes of sections 26(c) and 27(1);
- (c) respecting costs associated with small power production contracts under the *Small Power Research and Development Act* for the purposes of section 36(2)(c);
- (d) respecting costs incurred in the generation of electricity from isolated regulated generating units listed in Part 2 of the Schedule for the purposes of section 36(2)(d);
- (e) respecting the date by which or period within which anything is required to be done under this Act, if not specified in this Act;
- (f) respecting the authority of the Minister to extend dates or lengthen periods expressly specified in this Act;
- (g) respecting the conversion to this Act of anything from the *Electric Energy Marketing Act*;
- (h) to deal with any difficulty or impossibility resulting from this Act or the transition to this Act from the *Electric Energy Marketing Act*;

- (i) defining any expression used in this Act but not defined in this Act.

(2) After the Minister has consulted with the committee established under section 39, the Lieutenant Governor in Council may make regulations to establish the date after which and the manner in which costs associated with transmission facilities that connect with the electric system in Saskatchewan shall be included in the costs paid by the Transmission Administrator pursuant to section 26(a), including costs relating to those connection facilities that have been held in a Plant Held for Future Use account if the Board considers them prudent.

(3) The consultation under subsection (2) must be completed before August 1, 1996.

Regulations  
for defined  
period

72(1) The Lieutenant Governor in Council may make regulations

- (a) conferring or imposing on any person or class of persons engaged in the generation, pooling, transmission, distribution, exchange, purchase or sale of electricity any power, duty or function necessary to carry out the purposes of this Act;
- (b) allocating, determining, fixing or prescribing anything required by this Act to be allocated, determined, fixed or prescribed, including the manner of allocation, determination, fixing or prescription, if not specified in this Act;
- (c) respecting any matters, in addition to those specified in this Act, to be considered by the Board in making an order under this Act;
- (d) respecting any matter that the Minister considers is not provided for or is insufficiently provided for in this Act.

(2) A regulation made under this section is repealed on the earliest of

- (a) the coming into force of an amendment to this Act that adds the matter to this Act,
- (b) the coming into force of a regulation that repeals the regulation made under subsection (1), and
- (c) 2 years after the regulation 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 the regulation.

(4) No regulation shall be made under subsection (1) after December 31, 1997.

Board rules

**73(1)** The Board may make rules respecting funding for the purpose of assisting any person

- (a) to apply or become an intervenor at an application under section 49 or 56 or at a proceeding under section 57,
- (b) to make a complaint or become an intervenor at the hearing of a complaint under section 16, or
- (c) to become a party under Part 6 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 or power the Board has to provide funding.

(3) A rule under subsection (1) 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.

(4) The Board may make rules

- (a) exempting any facility or class of facilities, other than regulated generating units listed in the Schedule, from the definition in section 1(1)(f), and
- (b) exempting from the operation of this Act the electric energy produced from an industrial system.

(5) The Board may make rules respecting the information required to be filed with the Board and the person required to file it, including

- (a) forecasts, and
- (b) separate information in relation to generation, pooling, transmission, distribution, exchange, purchase or sale of

electric energy where one or more of those functions are undertaken by the same person.

General  
offences

**74(1)** A person who knowingly contravenes a provision of this Act is guilty of an offence.

(2) A person who is guilty of an offence under subsection (1) is liable to a fine of not more than \$500 000.

(3) A person who does not comply with an order of the Board is guilty of an offence.

(4) A person who is guilty of an offence under subsection (3) is liable to a fine of not more than \$100 000 a day for every day during which the default continues.

## PART 8

### TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS

Applications  
required in  
1995

**75(1)** *Each owner of a regulated generating unit shall apply to the Board before November 1, 1995 for determination of the matters described in section 76(a) and (b).*

(2) *The Transmission Administrator shall apply to the Board before November 1, 1995 for approval of the tariff described in section 76(c).*

(3) *Each owner of an electric utility shall apply to the Board before November 1, 1995 for approval of the tariff described in section 76(d).*

Hearings  
required in  
1995

**76** *The Board shall, before January 1, 1996,*

(a) *determine the unit obligation price in respect of each regulated generating unit to be applicable on and after January 1, 1996,*

(b) *determine the aggregate reservation price in respect of all regulated generating units to be applicable on and after January 1, 1996,*

(c) *approve the tariff to be put into effect on and after January 1, 1996 by the Transmission Administrator, and*

(d) *approve the tariff to be put into effect on and after January 1, 1996 by each electric utility.*

Interim rates  
and terms and  
conditions

*77 If the Board does not complete the duties referred to in section 76 before January 1, 1996, the rates and the terms and conditions that are in effect on December 31, 1995 in respect of electric distribution systems shall continue to apply as if this Act and the Electric Energy Marketing Act Repeal Act had not come into force, until the earliest of*

- (a) the date on which the rates or terms and conditions would ordinarily have ceased to apply,*
- (b) the date on which the Board determines new rates or terms and conditions under this Act, and*
- (c) December 31, 1996.*

Approved  
professional  
costs

*78(1) The Minister may approve on a one-time basis the professional and other costs relating to the development and implementation of this Act.*

*(2) In determining the aggregate reservation price under section 76(b), the Board shall include the costs approved under subsection (1).*

Continuation  
of approvals,  
orders, etc.

*79 Any approval, order, direction or other determination and any instrument relating to*

- (a) an electric utility, or*
- (b) the owner of an electric utility*

*made under the Public Utilities Board Act or the Hydro and Electric Energy Act before the coming into force of this Act do not cease to have effect as a result of the coming into force of this Act.*

Continuation  
of proceedings

*80(1) Any proceeding relating to*

- (a) an electric utility, or*
- (b) the owner of an electric utility*

*started but not completed under the Public Utilities Board Act before the coming into force of this Act shall be completed as if this Act had not come into force.*

*(2) Any proceeding relating to a matter that arises before January 1, 1996, other than a matter arising under this Act, whether the proceeding is started before or after January 1, 1996, shall be*

*started and completed under the Public Utilities Board Act as if this Act had not come into force.*

Amends SA  
1994 cA-19.5

**81** *The Alberta Energy and Utilities Board Act is amended*

- (a) *in section 10(2) by striking out "ERCB or the PUB" and substituting "ERCB, the PUB or the Board";*
- (b) *by adding the following after section 10:*

Additional  
powers of the  
Board

**10.1** The Board has the jurisdiction and all the powers, rights and privileges that are given to it or provided for under any other enactment.

Amends RSA  
1980 cH-13

**82** *The Hydro and Electric Energy Act is amended*

- (a) *by repealing section 2 and substituting the following:*

Purposes of  
Act

**2** The purposes of this Act are

- (a) to provide for the economic, orderly and efficient development and operation, in the public interest, of hydro energy and the generation and transmission of electric energy in Alberta,
- (b) to secure the observance of safe and efficient practices in the public interest in the development of hydro energy and in the generation, transmission and distribution of electric energy in Alberta,
- (c) to assist the Government in controlling pollution and ensuring environment conservation in the development of hydro energy and in the generation, transmission and distribution of electric energy in Alberta, and
- (d) to provide for the collection, appraisal and dissemination of information regarding the demand for and supply of electric energy that is relevant to the electric industry in Alberta.

- (b) *by adding the following after section 2:*

Guidance to  
Board

**2.1** Where the Board is considering

- (a) an application under section 9 for the construction or operation of a generating unit as defined in the *Electric Utilities Act*, or

- (b) an application under section 17 for connection of a generating unit as defined in the *Electric Utilities Act*,

the Board shall treat the application in a manner similar to the manner in which it would treat an application over which the Board has jurisdiction relating to an industrial facility and in doing so the Board shall have regard for section 6 of the *Electric Utilities Act*,

- (c) for the purposes of the consideration required to be given by the Board under section 2.1 of the *Energy Resources Conservation Act*, and
- (d) in order to determine whether the purposes of this Act will be achieved.

(c) in section 9

- (i) in subsection (1) by striking out "and with the authorization of the Lieutenant Governor in Council";

- (ii) by repealing subsections (2) and (4);

(d) in section 12 by adding the following after subsection (2):

(2.1) 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.

(e) in section 17

- (i) by repealing subsection (2)(c) and (e);

- (ii) by adding the following after subsection (2):

(2.1) In making an order under subsection (2) the Board may consider sections 9(2), 13(1)(a), 23, 24 and 28(1) and (2) of the *Electric Utilities Act*.

(f) by adding the following after section 20:

Specific  
generating  
units

**20.1** Section 20 applies only to generating units that are regulated generating units as defined in the *Electric Utilities Act*.

- (g) in section 26(4) by striking out "and" at the end of clause (c), adding "and" at the end of clause (d) and adding the following after clause (d):

- (e) compensation for obligations imposed in connection with entitlements and reservation prices for regulated generating units under the *Electric Utilities Act* and for any obligations or commitments arising from financial arrangements to manage financial risk associated with the pool price or from other arrangements made by the electric distribution system,

(h) in section 34

- (i) in subsection (1)(b) by adding "containing a regulated generating unit as defined in the *Electric Utilities Act*" after "power plant";
- (ii) in subsection (1.1)(b) by adding "containing a regulated generating unit as defined in the *Electric Utilities Act*" after "power plant".

Amends SA  
1994 cM-26.1

83 *The Municipal Government Act is amended*

- (a) in section 28(b) by adding "or a subsidiary of a municipality as defined in section 1(2) of the *Electric Utilities Act*" after "municipality";

(b) in section 30

- (i) by renumbering it as section 30(1);
- (ii) in subsection (1) by striking out "fuel or electric power" and substituting "or fuel";
- (iii) by adding the following after subsection (1):

(2) If a council or a municipal public utility proposes to make an agreement regarding the supply of electric power for a period that, with rights of renewal, could exceed 5 years, the agreement must be approved by the Alberta Energy and Utilities Board before it is made.

(c) in section 45 by adding the following after subsection (4):

(5) Subsection (3) does not apply to an agreement to provide a utility service between a council and a subsidiary of the municipality as defined in section 1(2) of the *Electric Utilities Act*.

**84** *The Public Utilities Board Act is amended*

(a) *in section 1*

(i) *by adding the following after clause (b.1):*

(b.2) "electric utility" has the meaning given to it in the *Electric Utilities Act*;

(ii) *in clause (i)*

(A) *by repealing subclause (iii) and substituting the following:*

(iii) a system, works, plant, equipment or service for the production, transmission, delivery or furnishing of water, heat, light or power supplied by means other than electricity, either directly or indirectly to or for the public,

(B) *by adding "and" at the end of subclause (iv) and by adding the following after subclause (iv):*

(v) an electric utility;

(b) *by adding the following after section 106:*

**Division 4.1**  
**Electric Utilities**

Application of  
Act to electric  
utilities

**106.1(1)** Subject to subsection (2), sections 70 to 73, 80 to 87, 90, 90.1, 91, 93, 94, 96, 97, 98, 102 and 106 do not apply to an electric utility.

(2) Part 2 applies as if subsection (1) had not come into force in respect of electric energy

(a) that is generated in Alberta before January 1, 1996,  
and

(b) that enters Alberta before January 1, 1996.

(3) If there is an inconsistency between this Act and the *Electric Utilities Act*, the *Electric Utilities Act* prevails.

Coming into  
force

85 Section 82 comes into force on January 1, 1996.

## SCHEDULE

### PART 1: REGULATED GENERATING UNITS

Generating Unit	Owner	Type of Plant
Barrier #1	TAU	hydro
Battle River #1	APL	coal-fired thermal
Battle River #2	APL	coal-fired thermal
Battle River #3	APL	coal-fired thermal
Battle River #4	APL	coal-fired thermal
Battle River #5	APL	coal-fired thermal
Bearspaw #1	TAU	hydro
Bighorn #1	TAU	hydro
Bighorn #2	TAU	hydro
Brazeau #1	TAU	hydro
Cascade #1	TAU	hydro
Cascade #2	TAU	hydro
Clover Bar #1	EP	gas-fired thermal
Clover Bar #2	EP	gas-fired thermal
Clover Bar #3	EP	gas-fired thermal
Clover Bar #4	EP	gas-fired thermal
Genesee #1	EP	coal-fired thermal
Genesee #2	EP	coal-fired thermal
Ghost #1	TAU	hydro
Ghost #2	TAU	hydro
Ghost #3	TAU	hydro
Ghost #4	TAU	hydro
Horseshoe #1	TAU	hydro
Horseshoe #2	TAU	hydro
Horseshoe #3	TAU	hydro
Horseshoe #4	TAU	hydro
H.R. Milner	APL	coal-fired thermal
Interlakes #1	TAU	hydro
Kananaskis #1	TAU	hydro
Kananaskis #2	TAU	hydro
Kananaskis #3	TAU	hydro
Keephills #1	TAU	coal-fired thermal
Keephills #2	TAU	coal-fired thermal
Pocaterra #1	TAU	hydro
Rainbow #1	APL	gas turbine
Rainbow #2	APL	gas turbine
Rainbow #3	APL	gas turbine
Rosssdale #8	EP	gas-fired thermal
Rosssdale #9	EP	gas-fired thermal
Rosssdale #10	EP	gas-fired thermal
Rundle #1	TAU	hydro

Rundle #2	TAU	hydro
Sheerness #1	APL/TAU	coal-fired thermal
Sheerness #2	APL/TAU	coal-fired thermal
Spray #1	TAU	hydro
Spray #2	TAU	hydro
Sturgeon #1	APL	gas turbine
Sturgeon #2	APL	gas turbine
Sundance #1	TAU	coal-fired thermal
Sundance #2	TAU	coal-fired thermal
Sundance #3	TAU	coal-fired thermal
Sundance #4	TAU	coal-fired thermal
Sundance #5	TAU	coal-fired thermal
Sundance #6	TAU	coal-fired thermal
Three Sisters #1	TAU	hydro
Wabamun #1	TAU	coal-fired thermal
Wabamun #2	TAU	coal-fired thermal
Wabamun #3	TAU	coal-fired thermal
Wabamun #4	TAU	coal-fired thermal

## PART 2: ISOLATED REGULATED GENERATING UNITS

Generating Unit	Owner	Type of Plant
Chinchaga	APL	thermal
Chipewyan Lake	APL	thermal
Colin - East Panny	APL	thermal
Colin - Kidney	APL	thermal
Fir/Spotter	APL	thermal
Flat Top Mountain	APL	thermal
Foggy Mountain	APL	thermal
Fort Chipewyan	APL	thermal
Fox Lake	APL	thermal
Garden Creek	APL	thermal
Hunt Creek	APL	thermal
Indian Cabins	APL	thermal
Jasper - Astoria	APL	hydro
Jasper - Pallisades	APL	thermal
Karr	APL	thermal
Mariana Lake	APL	thermal
Marten Hills	APL	thermal
Microwave Generating Stations:		
Algar Tower	APL	thermal
Berland Tower	APL	thermal
Crow Tower	APL	thermal
Economy Tower	APL	thermal
Indian Cabins Tower	APL	thermal
May Tower	APL	thermal
Simonette Tower	APL	thermal
Steen River Tower	APL	thermal

Thickwood Hills Tower	APL	thermal
Panny River	APL	thermal
Peace Point	APL	thermal
Seal Lake	APL	thermal
Serenpet - Comet	APL	thermal
Skunk Lake	APL	thermal
Steen River Town	APL	thermal
Stowe Creek	APL	thermal
Touchwood	APL	thermal
Trout Lake	APL	thermal