



Province of Alberta

PUBLIC UTILITIES ACT

Revised Statutes of Alberta 2000
Chapter P-45

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Office Consolidation

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Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2012 cE-0.3 s284 amends s1(d).

Regulations

The following is a list of the regulations made under the *Public Utilities Act* that are filed as Alberta Regulations under the Regulations Act

	Alta. Reg.	<i>Amendments</i>
Public Utilities Act		
Public Utilities Designation	194/2006	10/2007, 254/2007, 186/2009

PUBLIC UTILITIES ACT

Chapter P-45

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

Definitions

1 In this Act,

- (a) repealed 2007 cA-37.2 s82(25);
- (b) “charter” means a special or general Act of Alberta or Ordinance of the North-West Territories
 - (i) by or under which a corporation is incorporated, and the certificate of incorporation or other document issued by virtue of the Act or Ordinance, or
 - (ii) granting powers to a corporation;
- (b.1) “Commission” means the Alberta Utilities Commission under the *Alberta Utilities Commission Act*;
- (c) “electric utility” has the meaning given to it in the *Electric Utilities Act*;
- (d) “local authority” means a city, town, village, municipal district or Metis settlement, a school division, a school district not being a school district included in a school division, a public college, a health region under the *Regional Health Authorities Act*, an irrigation district and a drainage district;
- (e) “municipality” means a city, town, village or municipal district and includes a Metis settlement;
- (f) “oil” means crude petroleum oil and all other hydrocarbons, regardless of gravity, that are or can be recovered from a pool in liquid form by ordinary production methods;
- (g) “oil pipeline” means a pipe or any system or arrangement of pipes wholly within Alberta and whereby oil is conveyed from any place at which it is produced to any other place, or from any place where it is stored, processed or treated to any other place, and includes
 - (i) all property of any kind used for the purpose of or in connection with, or incidentally to, the operation of a pipeline in the gathering, transporting, handling and delivery of oil, and

- (ii) tanks, reservoirs, pumps, racks and storage facilities incidental to delivery;
- (h) “owner of a public utility” means
 - (i) a person owning, operating, managing or controlling a public utility and whose business and operations are subject to the legislative authority of Alberta, and the lessees, trustees, liquidators of the public utility or any receivers of the public utility appointed by any court, but
 - (ii) does not include
 - (A) a municipality that has not voluntarily come under this Act in the manner provided in this Act, or
 - (B) a regional services commission;
- (i) “public utility” means
 - (i), (ii) repealed 2007 c42 s5,
 - (iii) repealed RSA 2000 cR-4 s61 (2002 c30 s27),
 - (iv) 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,
 - (v) an oil pipeline the proprietor of which is declared by the Alberta Energy Regulator to be a common carrier, and
 - (vi) an electric utility;
- (j) “regional services commission” means a regional services commission under Part 15.1 of the *Municipal Government Act*.
- (k) repealed 2007 c42 s5.
RSA 2000 cP-45 s1; RSA 2000 cR-4 s61; 2002 c30 s27;
2007 cA-37.2 s82(25); 2007 c42 s5; 2012 cR-17.3 s104

Application includes complaint

2 An application to the Commission under this Act includes a complaint in writing made to the Commission.

RSA 2000 cP-45 s2; 2007 cA-37.2 s82(25)

Part 1 Repealed 2007 cA-37.2 s82(25).

Part 2 **Public and Other Utilities**

Division 1 **General**

Application of Part

78(1) This Part applies

- (a) to all public utilities owned or operated by or under the control of a company or corporation that is subject to the legislative authority of Alberta or that has, by virtue of an agreement with a municipality, submitted to the jurisdiction and control of the Commission;
- (b) subject to subsection (2), to every person owning or operating a public utility to which the jurisdiction of the Legislature extends;
- (c) to all public utilities owned or operated by or under the control of the Crown, or an agent of the Crown, in right of Alberta;
- (d) to all utilities and other matters dealt with in Divisions 3 to 6 of this Part to the extent set out in those Divisions.

(2) This Part does not apply to a public utility owned or operated by a municipality unless the public utility is brought under this Act by a bylaw of the municipality as provided in this Part.

(3) When the *Water Act* is applicable to an owner of a public utility, this Part shall be applied to it as being subject to that Act and to the orders and regulations made under that Act.

RSA 2000 cP-45 s78;2007 cA-37.2 s82(25)

Jurisdiction and powers

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

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

(2) The Commission has, and is deemed at all times to have had, jurisdiction to fix and settle, on application, the price and terms of purchase by a council of a municipality pursuant to section 47 of the *Municipal Government Act*

- (a) before the exercise by the council under that provision of its right to purchase and without binding the council to purchase, or
- (b) when an application is made under that provision for the Commission's consent to the purchase, before hearing or determining the application for its consent.

2007 cA-37.2 s82(25)

Intervention by municipality

78.2(1) When the council of a municipality considers that the interest of the public in the municipality or in a considerable portion of the municipality is sufficiently concerned, the council may by resolution authorize the municipality to become a complainant or intervener in any matter within the jurisdiction of the Commission.

(2) For the purposes of subsection (1), the council of a municipality may take any steps, incur any expense and take any proceedings necessary to submit the question in dispute to the decision of the Commission, and if necessary may authorize the municipality to become a party to an appeal from a decision of the Commission.

2007 cA-37.2 s82(25)

Furnishing documents, etc., to Commission

78.3(1) The officials of a local authority to whom the Commission applies for statements, reports, copies of documents or information of any kind shall furnish the required statements, reports, copies or information to the Commission free of charge.

(2) The Registrar of Titles under the *Land Titles Act*, the Registrar of the Metis Settlements Land Registry, the Minister of Infrastructure and the Minister of Transportation, to the extent that they relate to public works, shall furnish the Commission without charge with any certificates and certified copies of documents that the Commission in writing requires, and the Commission and a member or official of the Commission authorized by the Commission may at any time search in the public records of the land titles offices or the Metis Settlements Land Registry free of charge.

2007 cA-37.2 s82(25);2013 c10 s26

Declaration re public utility

79(1) The Commission, on its own initiative or on the application of a person having an interest, may, or on the order of the Lieutenant Governor in Council shall, declare

- (a) that any thing that is a public utility by virtue of section 1(i)(i), (iii) or (iv) is not a public utility,
- (b) that a person is not for the purposes of this Act an owner of a public utility, or
- (c) that a provision of this Act does not apply to
 - (i) a public utility,
 - (ii) an owner of a public utility, or
 - (iii) goods or services offered or provided by a public utility.

(2) During the time that a declaration made under subsection (1)(c) remains in force, the provision in respect of which that declaration was made does not apply, as the case may be, to

- (a) the public utility,
- (b) the owner of the public utility, or
- (c) goods or services offered or provided by the public utility.

(3) An order of the Commission made under subsection (1) is subject to those terms and conditions prescribed by the Commission or imposed by an order of the Lieutenant Governor in Council.

(4) The Commission,

- (a) on its own initiative or on the application of a person having an interest, may, after giving notice and conducting a hearing, or
- (b) on the order of the Lieutenant Governor in Council, shall

vary or rescind in whole or in part an order made by the Commission under this section.

RSA 2000 cP-45 s79;2007 cA-37.2 s82(25)

Investigation of utilities and rates

80 When it is made to appear to the Commission, on the application of an owner of a public utility or of a municipality or person having an interest, present or contingent, in the matter in

respect of which the application is made, that there is reason to believe that the tolls demanded by an owner of a public utility exceed what is just and reasonable, having regard to the nature and quality of the service rendered or of the commodity supplied, the Commission

- (a) may proceed to hold any investigation that it thinks fit into all matters relating to the nature and quality of the service or the commodity in question, or to the performance of the service and the tolls or charges demanded for it,
- (b) may make any order respecting the improvement of the service or commodity and as to the tolls or charges demanded, that seems to it to be just and reasonable, and
- (c) may disallow or change, as it thinks reasonable, any such tolls or charges that, in its opinion, are excessive, unjust or unreasonable or unjustly discriminate between different persons or different municipalities, but subject however to any provisions of any contract existing between the owner of the public utility and a municipality at the time the application is made that the Commission considers fair and reasonable.

RSA 2000 cP-45 s80;2007 cA-37.2 s82(25)

Rates established by agreement

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

RSA 2000 cP-45 s81;2007 cA-37.2 s82(25)

Use of public land

82(1) When an owner of a public utility who has the right to enter a municipality for the purpose of placing in it, with or without the consent of the municipality, rails, posts, wires, pipes, conduits or other apparatus on, along, across, over or under any public road, street, square, watercourse or part of it, cannot come to an agreement with the municipality as to that use of the roadway or

the watercourse in question, or as to the terms and conditions of its use, and applies to the Commission for permission to use the roadway or watercourse or to fix the terms and conditions of its use, the Commission may permit the use of the roadway or watercourse, and prescribe the terms and conditions of that use.

(2) When an owner of a public utility

- (a) is unable to extend the owner's system, line or apparatus from a point where the owner lawfully does business to another point or points where the owner is authorized to do business, without placing rails, posts, wires, pipes, conduits or other apparatus on, along, across, over or under some public road, street, square, watercourse or part of it,
- (b) cannot lawfully so place rails, posts, wires, pipes, conduits or other apparatus without the consent of the municipality having control of the public road, street, square, watercourse or part of it, and
- (c) is unable to come to an agreement with the municipality,

if the owner applies to the Commission for permission to use the public road, street, square, watercourse or part of it, for the purpose of the extension only, and without unduly preventing the use of it by other persons already lawfully using it, the Commission may permit that use, notwithstanding any law or contract granting any other person exclusive rights with respect to it, but the Commission shall prescribe the terms and conditions on which the owner of the public utility may use the public road, street, square or watercourse, or part of it.

RSA 2000 cP-45 s82;2007 cA-37.2 s82(25)

Variation of terms

83(1) In all differences arising between an owner of a public utility and a municipality with reference to the performance of the terms and conditions mentioned in section 82, the Commission may change the terms and conditions if, in its opinion, changes are necessary or desirable.

(2) On the application of a municipality alleging that an owner of a public utility doing business in the municipality has failed to extend the owner's services to any part of the municipality, the Commission, after hearing the parties and their witnesses and making any inquiry into the matter that it sees fit, may order the extension of the services and specify the conditions under which the extension is to be done, including the cost of all necessary works which it may apportion between the owner of the public utility and the municipality in any manner it considers equitable.

RSA 2000 cP-45 s83;2007 cA-37.2 s82(25)

Use of public ways

84 Subject to the terms of any contract between an owner of a public utility and a municipality, and of the franchise or rights of that owner, the Commission may define or prescribe the terms and conditions on which an owner of a public utility will be required or permitted to use, for any of the purposes of the public utility, any highway or any public bridge or subway constructed or to be constructed by the municipality, or 2 or more municipalities, and may enforce compliance with those terms and conditions.

RSA 2000 cP-45 s84;2007 cA-37.2 s82(25)

Supervision by Commission

85(1) The Commission shall exercise a general supervision over all public utilities, and the owners of them, and may make any orders regarding extension of works or systems, reporting and other matters, that are necessary for the convenience of the public or for the proper carrying out of any contract, charter or franchise involving the use of public property or rights.

(2) The Commission shall conduct all inquiries necessary for the obtaining of complete information as to the manner in which owners of public utilities comply with the law, or as to any other matter or thing within the jurisdiction of the Commission.

RSA 2000 cP-45 s85;2007 cA-37.2 s82(25)

Fiduciary owner

86(1) The fact that a receiver, manager or other official of a public utility, or a sequestrator of the property of it, has been appointed by a court, or is managing or operating a public utility under the authority of a court, does not prevent the exercise by the Commission of any jurisdiction conferred by this Act.

(2) A court appointed receiver, manager or official shall manage and operate the public utility in accordance with this Act and with the orders and directions of the Commission, whether general or referring particularly to the public utility, and the receiver, manager or official, and any person acting under the receiver, manager or

official, shall obey all orders of the Commission within its jurisdiction in respect of the public utility, and is subject to have them enforced against the receiver, manager or official by the Commission, notwithstanding the fact that the receiver, manager, official or person is appointed by, or acts under the authority of a court.

RSA 2000 cP-45 s86;2007 cA-37.2 s82(25)

Investigation of public utility

87(1) The Commission may, on its own initiative, or on the application of a person having an interest, investigate any matter concerning a public utility.

(2) When in the opinion of the Commission it is necessary to investigate a public utility or the affairs of its owner, the Commission shall be given access to and may use any books, documents or records with respect to the public utility and in the possession of any owner of the public utility or municipality or under the control of the Alberta Energy Regulator or a board, commission or department of the Government.

(3) A person who directly or indirectly controls the business of an owner of a public utility within Alberta and any company controlled by that person shall give the Commission or its agent access to any of the books, documents and records that relate to the business of the owner or shall furnish any information in respect of it required by the Commission.

RSA 2000 cP-45 s87;2007 cA-37.2 s82(25);
2012 cR-17.3 s104

Filing of schedules and rates

88 An owner of a public utility shall, with respect to the public utility,

- (a) file with the Commission complete schedules of every classification employed and of every individual or joint rate, toll, fare or charge made, charged or enacted by the owner for any product supplied or service rendered within Alberta, as may be prescribed by the Commission,
- (b) furnish safe, adequate and proper service and keep and maintain the owner's property and equipment in a condition that enables the owner to do so,
- (c) keep the owner's books, records and accounts so as to afford an intelligent understanding of the conduct of the owner's business and in accord with a uniform system of accounting that the Commission may prescribe by regulation,

- (d) furnish annually, and at any other periodic intervals that the Commission may require, a detailed report of finances and operations, in the form and containing the matters and verified in the manner the Commission requires, and
- (e) subject to any order of the Commission, maintain proper and adequate depreciation, amortization or depletion accounts on a straight line basis or unit of production method or some other basis or method that the Commission may direct on application to it.

RSA 2000 cP-45 s88;2007 cA-37.2 s82(25)

Fixing of rates

89 The Commission, either on its own initiative or on the application of a person having an interest, may by order in writing, which is to be made after giving notice to and hearing the parties interested,

- (a) fix just and reasonable individual rates, joint rates, tolls or charges, or schedules of them, as well as commutation, mileage or kilometre rate and other special rates, which shall be imposed, observed and followed subsequently by the owner of the public utility;
- (b) fix proper and adequate rates and methods of depreciation, amortization or depletion in respect of the property of any owner of a public utility, who shall make the owner's depreciation, amortization or depletion accounts conform to the rates and methods fixed by the Commission;
- (c) fix just and reasonable standards, classifications, regulations, practices, measurements or service, which shall be furnished, imposed, observed and followed subsequently by the owner of the public utility;
- (d) repealed RSA 2000 cR-4 s61 (2002 c30 s27);
- (e) require an owner of a public utility to establish, construct, maintain and operate, but in compliance with other provisions of this or any other Act relating to it, any reasonable extension of the owner's existing facilities when in the judgment of the Commission the extension is reasonable and practical and will furnish sufficient business to justify its construction and maintenance, and when the financial position of the owner of the public utility reasonably warrants the original expenditure required in making and operating the extension.

RSA 2000 cP-45 s89;RSA 2000 cR-4 s61;2002 c30 s27;
2007 cA-37.2 s82(25)

Determining rate base

90(1) In fixing just and reasonable rates, tolls or charges, or schedules of them, to be imposed, observed and followed subsequently by an owner of a public utility, the Commission shall determine a rate base for the property of the owner of a public utility used or required to be used to provide service to the public within Alberta and on determining a rate base it shall fix a fair return on the rate base.

(2) In determining a rate base under this section, the Commission shall give due consideration

- (a) to the cost of the property when first devoted to public use and to prudent acquisition cost to the owner of the public utility, less depreciation, amortization or depletion in respect of each, and
- (b) to necessary working capital.

(3) In fixing the fair return that an owner of a public utility is entitled to earn on the rate base, the Commission shall give due consideration to all those facts that, in the Commission's opinion, are relevant.

RSA 2000 cP-45 s90;2007 cA-37.2 s82(25)

Revenue and costs considered

91(1) In fixing just and reasonable rates, tolls or charges, or schedules of them, to be imposed, observed and followed by an owner of a public utility,

- (a) the Commission may consider all revenues and costs of the owner that are in the Commission's opinion applicable to a period consisting of
 - (i) the whole of the fiscal year of the owner in which a proceeding is initiated for the fixing of rates, tolls or charges, or schedules of them,
 - (ii) a subsequent fiscal year of the owner, or
 - (iii) 2 or more of the fiscal years of the owner referred to in subclauses (i) and (ii) if they are consecutive,

and need not consider the allocation of those revenues and costs to any part of such a period,

- (b) the Commission shall consider the effect of the *Small Power Research and Development Act* on the revenues and costs of the owner with respect to the generation, transmission and distribution of electric energy,

- (c) the Commission may give effect to that part of any excess revenue received or any revenue deficiency incurred by the owner that is in the Commission's opinion applicable to the whole of the fiscal year of the owner in which a proceeding is initiated for the fixing of rates, tolls or charges, or schedules of them, as the Commission determines is just and reasonable,
- (d) the Commission may give effect to such part of any excess revenue received or any revenue deficiency incurred by the owner after the date on which a proceeding is initiated for the fixing of rates, tolls or charges, or schedules of them, as the Commission determines has been due to undue delay in the hearing and determining of the matter, and
- (e) the Commission shall by order approve the method by which, and the period (including any subsequent fiscal period) during which, any excess revenue received or any revenue deficiency incurred, as determined pursuant to clause (c) or (d), is to be used or dealt with.

RSA 2000 cP-45 s91;2007 cA-37.2 s82(25)

No automatic increases

92 In fixing just and reasonable rates, tolls or charges, or schedules of them, to be imposed by the owner of a public utility, the Commission shall not fix any rate, toll or charge or schedule in such a manner that the rate to consumers or any class of consumers may be increased from year to year or other period without a further application to and order of the Commission on it.

RSA 2000 cP-45 s92;2007 cA-37.2 s82(25)

Filing of schedule of rates

93(1) For the purpose of fixing the just and reasonable rates that may be charged to consumers of power by an owner of a public utility who generates that power by the use of gas and who purchases gas for that purpose pursuant to a contract under which provision is made

- (a) for the progressive increase in the price of gas to the owner of the public utility,
- (b) for an increase in the price of gas to the owner of the public utility by reason of changes in any prices received by the owner on the resale of the gas,
- (c) for an increase in the price of gas to the owner of the public utility by reason of the payment of higher prices by any purchaser of gas in any gas producing area, or

- (d) for the redetermination of the price of gas to the owner of the public utility either by agreement of the parties or pursuant to arbitration,

the Commission, on the application of the owner of the public utility and on notice by the owner to any municipality affected and to any other persons that the Commission directs, may receive for filing a new schedule of rates that are alleged by the owner to be occasioned by the rise in the price required to be paid by the owner for purchased gas.

(2) The new schedule may be put into effect by the owner of the public utility on receiving the approval of the Commission to it, unless within 60 days following the filing of a new schedule the Commission, either on application of a municipality affected or any other person that the Commission considers to be affected by the new schedule or on its own motion without application, directs an inquiry into the justness and reasonableness of the new schedule of rates.

(3) When the owner of the public utility supplying power to consumers enters into a contract for the purchase of gas under which provision is made for any of the matters referred to in subsection (1)(a) to (d), a copy of the contract shall be forthwith filed with the Commission and a notice of it sent to the persons the Commission directs.

RSA 2000 cP-45 s93;2007 cA-37.2 s82(25)

Review by Commission

94(1) The Commission shall, at least once in every 3 years, review the affairs, earnings and accounts of each owner of a public utility in respect of which the Commission has previously fixed just and reasonable rates, tolls or charges, or schedules of them, under section 89.

(2) The Commission may from time to time in its discretion review the affairs, earnings and accounts of any owner of a public utility in respect of whose business the Commission has not fixed just and reasonable rates, tolls or charges under section 89.

(3) A person or municipality whose interest, in the opinion of the Commission, is affected or likely to be affected by the result of a review by the Commission of the business of an owner of a public utility is entitled to obtain from the Commission the result of the review, including all information in the Commission's possession in respect of the earnings of the owner.

RSA 2000 cP-45 s94;2007 cA-37.2 s82(25)

Increasing rates

95 In considering and acting on an application or matter before the Commission and involving the question of rates to be charged for service by an owner of a public utility, the Commission shall not make any ruling or direction to raise rates for the service beyond the amounts that the owner of the public utility desires to impose.

RSA 2000 cP-45 s95;2007 cA-37.2 s82(25)

Joint use of equipment

96 When it is in the public interest or when, as a means of saving expense, it is in the interest of any owners of public utilities that there be a joint use of poles, conduits or equipment or other means of distribution, the Commission may, after notice to all parties concerned, in cases where it is practicable, order the joint use and declare the terms of it, and by the order or subsequent order make any provisions necessary for the convenient and effectual carrying out of the work, and for the operation of the services by means of the equipment so to be jointly used.

RSA 2000 cP-45 s96;2007 cA-37.2 s82(25)

97 Repealed RSA 2000 cR-4 s61 (2002 c30 s27).

Listing of corporation officers

98 The Commission may require every corporation that is the owner of a public utility

- (a) to file with the Commission a statement in writing, verified by the oaths of the president and secretary of the corporation and setting out the name, title of office or position and post office address, and the authority, powers and duties, of every officer, member of the board of directors, trustee, executive committee, superintendent, chief or head of construction and operation, or department, division or line of construction and operation of it, in such form as to disclose the source and origin of each administrative act, rule, decision, order or other action of the corporation, and
- (b) within 10 days after any change is made in the title of, or authority, powers or duties appertaining to, any such office or position, or the person holding it, to file with the Commission a like statement, verified in like manner, setting out the change.

RSA 2000 cP-45 s98;2007 cA-37.2 s82(25)

Licensing regulations

99(1) The Lieutenant Governor in Council may make regulations

- (a) providing for the licensing of owners of public utilities;
- (b) prohibiting any person or class of persons from engaging in the operation of a public utility, class of public utilities, or any part of a public utility without a licence;
- (c) exempting a public utility or class of public utilities from any or all of the regulations made under this section;
- (d) governing applications for licences or renewal of licences and the requirements to be met by the applicants or on renewal;
- (e) governing the fees to be paid on application for a licence or the renewal of a licence;
- (f) governing the terms or conditions of a licence;
- (g) governing the information to be given to the issuer of the licence by a licensee from time to time;
- (h) governing the circumstances under which a licence may be refused, cancelled or suspended.

(2) The Lieutenant Governor in Council may delegate any or all of the powers under subsection (1) to the Commission subject to any terms or conditions that the Lieutenant Governor in Council may impose.

(3) Any person who fails to comply with a regulation made under this section is guilty of an offence and liable

- (a) to a fine of not more than \$500, or
- (b) in the case of a continuing offence, to a fine of not more than \$100 a day for every day during which the offence continues.

RSA 2000 cP-45 s99;2007 cA-37.2 s82(25)

Division 2 Particular Restrictions, Duties and Obligations

Prohibitions

100 No owner of a public utility shall

- (a) make, impose or extract an unjust or unreasonable or unjustly discriminatory or unduly preferential individual or joint rate, commutation rate, mileage or kilometre rate or other special rate, toll, fare, charge or schedule for any product or service supplied or rendered by it within Alberta,
- (b) adopt or impose an unjust or unreasonable classification in the making of or as the basis of an individual or joint rate, toll, fare, charge or schedule for any product or service supplied or rendered by it within Alberta,
- (c) adopt, maintain or enforce a regulation, practice or measurement that is unjust, unreasonable, unduly preferential, arbitrarily or unjustly discriminatory or otherwise in contravention of law, or provide or maintain a service that is unsafe, improper or inadequate, or withhold or refuse a service that can reasonably be demanded and furnished when ordered by the Commission, or
- (d) make or give, directly or indirectly, an undue or unreasonable preference or advantage to any person or corporation or to any locality or to any particular description of traffic in any respect whatsoever, or subject a particular person or corporation or locality or a particular description of traffic to any prejudice or disadvantage in any respect whatever.

RSA 2000 cP-45 s100;2007 cA-37.2 s82(25)

Designated public utilities

101(1) The Lieutenant Governor in Council may by regulation designate those owners of public utilities to which this section and section 102 apply.

(2) No owner of a public utility designated under subsection (1) shall

- (a) issue any
 - (i) of its shares or stock, or
 - (ii) bonds or other evidences of indebtedness, payable in more than one year from the date of them,

unless it has first satisfied the Commission that the proposed issue is to be made in accordance with law and has obtained the approval of the Commission for the purposes of the issue and an order of the Commission authorizing the issue,

- (b) capitalize
 - (i) its right to exist as a corporation,
 - (ii) a right, franchise or privilege in excess of the amount actually paid to the Government or a municipality as the consideration for it, exclusive of any tax or annual charge, or
 - (iii) a contract for consolidation, amalgamation or merger,
- (c) without the approval of the Commission, capitalize any lease, or
- (d) without the approval of the Commission,
 - (i) sell, lease, mortgage or otherwise dispose of or encumber its property, franchises, privileges or rights, or any part of them, or
 - (ii) merge or consolidate its property, franchises, privileges or rights, or any part of them,

and a sale, lease, mortgage, disposition, encumbrance, merger or consolidation made in contravention of this clause is void, but nothing in this clause shall be construed to prevent in any way the sale, lease, mortgage, disposition, encumbrance, merger or consolidation of any of the property of an owner of a public utility designated under subsection (1) in the ordinary course of the owner's business.

(3) Notwithstanding subsection (2), the approval, authority, permission or consent of the Commission is not required in or with respect to

- (a) the issue of any shares of its capital stock by an owner of a public utility under the exercise of an optional right of conversion attaching to any shares, stocks, bonds, debentures, debenture stock or other evidence of indebtedness the issue of which has previously been approved by the Commission or was not required to be approved by the Commission by reason of an existing declaration made under subsection (4),
- (b) a right of entry, sale, disposition or other proceedings for the enforcement of a mortgage or charge created by trust deed or other instrument or security, in the enforcement of, or pursuant to, the security constituted by it or in the exercise of the rights or remedies granted in it or

otherwise available at law, if the trust deed or other instrument or security was approved or authorized by the Commission or was not required to be approved or authorized by the Commission by reason of an existing declaration made under subsection (4), or

- (c) the declaration or issuance of a stock dividend by an owner of a public utility.

(4) The Commission, on its own initiative or on the application of a person having an interest, may, or on the order of the Lieutenant Governor in Council shall, declare that subsection (2) or any part of it does not apply with respect to any transaction or class of transactions specified in the declaration.

(5) Where a declaration is made under subsection (4) in respect of a transaction entered into before the making of the declaration, the transaction,

- (a) in the case of a transaction under subsection (2)(a), (b) or (c), is deemed not to have been in contravention of that subsection, and
- (b) in the case of a transaction under subsection (2)(d), is deemed to be no longer void and to have been in force and effect from the date of the transaction,

except that the declaration does not affect any other rights that have accrued prior to the declaration.

RSA 2000 cP-45 s101;2007 cA-37.2 s82(25)

Prohibited share transaction

102(1) Unless authorized to do so by an order of the Commission, the owner of a public utility designated under section 101(1) shall not sell or make or permit to be made on its books a transfer of any share of its capital stock to a corporation, however incorporated, if the sale or transfer, in itself or in connection with previous sales or transfers, would result in the vesting in that corporation of more than 50% of the outstanding capital stock of the owner of the public utility.

(2) A purported

- (a) assignment or transfer, or
- (b) agreement for assignment or transfer,

by or through any person or corporation in contravention of subsection (1) is void.

(3) Nothing in subsection (1) shall be construed to prevent the holding of stock lawfully acquired before July 1, 1923.

RSA 2000 cP-45 s102;2007 cA-37.2 s82(25)

Changes in rates

103(1) No change in existing individual rates, joint rates, tolls or charges, or schedules of them, or any commutation, travel allowances or other special rates shall be made by an owner of a public utility, nor shall a new schedule of those rates, tolls or charges be established, until the changed rates or new rates are approved by the Commission.

(2) On approval, the changed rates or new rates come into force on a day to be fixed by the Commission, and the Commission may, either on application or on its own initiative, hear and determine whether the proposed increases, changes or alterations are just and reasonable.

(3) The burden of proof to show that any such increases, changes or alterations are just and reasonable is on the owner of the public utility seeking to make them.

RSA 2000 cP-45 s103;2007 cA-37.2 s82(25)

Accounts of municipal utility

104 A municipality operating a public utility shall keep the accounts of the public utility in the manner prescribed by the Commission for the accounting by the owners of similar public utilities, and shall file with the Commission any statements of those accounts that are directed by the Commission.

RSA 2000 cP-45 s104;2007 cA-37.2 s82(25)

105 Repealed RSA 2000 cR-4 s61 (2002 c30 s27).

Municipal franchises

106(1) No privilege or franchise granted to an owner of a public utility by a municipality within Alberta is valid until approved by the Commission.

(2) Approval may be given when, after hearing the parties interested, or with the consent of the parties, the Commission determines that the privilege or franchise is necessary and proper for the public convenience and properly conserves the public interests.

(3) The Commission may, in so approving, impose any conditions as to construction, equipment, maintenance, service or operation that the public convenience and interests reasonably require.

RSA 2000 cP-45 s106;2007 cA-37.2 s82(25)

Extra-provincial company franchises

107(1) No municipality shall enter into an agreement with, or grant a franchise to, a company, the business and operations of which are not subject to the legislative authority of Alberta, for the operation, management or control of any system, works, plant, equipment or service for the production, transmission, delivery or furnishing of water, heat, light or power, either directly or indirectly, to the municipality, unless there is contained in the agreement or grant a provision whereby the company agrees to submit its business and operations to the control and supervision of the Commission in the same manner and to the same extent as if the company were an owner of a public utility within the meaning of this Act.

(2) The provision shall, before the final entering into of an agreement or the granting of a franchise, be submitted for approval to the Commission.

(3) Any agreement entered into between a municipality and a company referred to in this section, and any franchise granted by a municipality to such a company, in contravention of this section is void.

RSA 2000 cP-45 s107;2007 cA-37.2 s82(25)

Conditions of municipal franchise

108 The Commission shall not approve of the granting by a municipality to any person of a privilege or franchise in respect of the supply of power unless

- (a) it is a term of the grant that the rights conferred by it are not exclusive as against the Crown in right of Alberta,
- (b) the person seeking the privilege or franchise has satisfied the Commission that the person's scheme for the supply of power is reasonable and sufficient, having regard to the general circumstances, and
- (c) the Commission is satisfied that having regard to the availability of any other source of supply in the area in which the municipality is situated and to any other circumstances, the granting of the privilege or franchise is to the general benefit of the area directly or indirectly affected by it.

RSA 2000 cP-45 s108;2007 cA-37.2 s82(25)

Union of utilities

109(1) The Lieutenant Governor in Council may by regulation designate those owners of public utilities to which this section applies.

(2) When, by a general or special Act, an owner of a public utility that is the subject of a designation under subsection (1) is authorized to unite with the owner of any other public utility, whether or not the owner of that other public utility is the subject of such a designation, the union has no effect unless it is first approved by the Commission and published in The Alberta Gazette.

RSA 2000 cP-45 s109;2007 cA-37.2 s82(25)

**Division 3
Pipeline Charges****Pipeline charges**

110 The Commission, after notice to and hearing of the parties interested, may fix the just and reasonable rates, tolls and charges for the gathering, transporting, distributing, handling and delivery of oil or any specified kind of oil by means of any oil pipeline, or for any service performed by the proprietor of the oil pipeline in relation to the gathering, transporting, distributing, handling or delivery of any oil.

RSA 2000 cP-45 s110;2007 cA-37.2 s82(25)

**Division 4
Municipally Owned Utilities****Municipality owned utilities**

111(1) A municipality owning or operating a public utility may, by bylaw approved by the Lieutenant Governor in Council, provide that the public utility shall come under the operation of this Act and be subject to the control and orders of the Commission.

(2) On the approval of the bylaw by the Lieutenant Governor in Council, the public utility owned or operated by the municipality afterwards comes under the operation of this Act and is subject to the control and orders of the Commission.

RSA 2000 cP-45 s111;2007 cA-37.2 s82(25)

Supply of utilities on order

112(1) This section applies, with respect to a regional services commission, to the area within the boundaries of the members of the regional services commission.

(2) In this section,

- (a) “proprietor commission” means a regional services commission that owns, operates, manages or controls a public utility;
- (b) “proprietor municipality” means a municipality that owns, operates, manages or controls a public utility;
- (c) “public utility” includes, in addition to its defined meaning under section 1, a sewerage or waste management system.

(3) On application by a municipality, a regional services commission or, in the case of an improvement district, the Minister responsible for the *Municipal Government Act*, the Commission may by order require the proprietor municipality or proprietor commission

- (a) to deliver, supply and furnish water at a place to be designated by the Commission and to do so on the terms and conditions the Commission considers proper, and
- (b) to make available, on the terms and conditions the Commission considers proper, to the municipality, regional services commission or improvement district making the application or on whose behalf the application was made, the sewage disposal facilities or waste management facilities of a proprietor municipality or proprietor commission.

(4) Subject to subsections (5) and (6), Part 2 applies, with all necessary modifications, to a public utility within any area to which this section applies and in respect of any public utility of a proprietor municipality as though a bylaw had been passed and approved by the Lieutenant Governor in Council under section 111 bringing its public utility under this Act.

(5) This section does not apply to the operation and management of a public utility of a proprietor municipality insofar as they relate to the affairs and business of the public utility within the corporate limits of the proprietor municipality.

(6) Subsection (4) does not apply to a public utility that is owned, operated, managed or controlled by a proprietor commission.

RSA 2000 cP-45 s112;2007 cA-37.2 s82(25)

Pollution of water supply

113(1) When an application under section 112 is made by a municipality or a regional services commission because the water supply most suitable or most economically available to the municipality is unfit for the usual municipal purposes as a result of

pollution that appears to be caused by any other municipality or person, the Commission may make the other municipality or person, or any of them, a party to the proceedings.

(2) When the Commission finds that a municipality, regional services commission or person is wholly or partly responsible for the pollution of the water supply, it may, when requiring the proprietor municipality or proprietor commission to deliver, supply and furnish water to the applying municipality or applying regional services commission pursuant to section 112,

- (a) direct and authorize the proprietor municipality or proprietor commission, or any other municipality or regional services commission, to construct and maintain a pipeline and any other works necessary for the delivery of the water to the applying municipality or applying regional services commission,
- (b) order any municipality, regional services commission or person found wholly or partly responsible for the pollution of the water supply to bear a portion of the cost of building and maintaining the water delivery system that the Commission considers equitable, and
- (c) fix the rates that may be charged by the proprietor municipality or proprietor commission to the applying municipality or applying regional services commission for the water to be supplied.

(3) The Commission may, from time to time, review and alter any order made under this section and may amend the order to include any further municipalities, regional services commissions or persons found to be partly responsible for the pollution.

RSA 2000 cP-45 s113;2007 cA-37.2 s82(25)

Saving existing rights

114 No order made under this Division affects or abrogates any existing contract or any existing right of or held by any company for the production, transmission, delivery or furnishing of water, gas, heat, light or power to or for inhabitants or businesses in the annexed or excluded territories, as the case may be.

RSA 1980 cP-37 s105

Surcharge

115(1) If a bylaw of a municipality has been passed and approved under section 111, the municipality may, notwithstanding the bylaw or anything in this Act, impose rates, tolls or charges in addition to those fixed by the Commission if the invoices submitted to its consumers

- (a) clearly distinguish the amounts being charged on the basis of the rates, tolls or charges fixed by the Commission from the additional amounts imposed by the municipality, and
- (b) identify the additional amounts imposed by the municipality as a surcharge or tax.

(2) This section applies only in cases where the bylaw under section 111 relates to a public utility that provides power that is generated wholly or partly by the use of gas.

RSA 2000 cP-45 s115;2007 cA-37.2 s82(25)

Division 5 Electric Utilities

Application of Act to electric utilities

116(1) Subject to subsection (2), sections 78 to 81, 88 to 95, 98, 99, 100, 103, 104, 106, 107, 108, 111 and 115 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.

1995 cE-5.5 s84

Division 6 Relating to Commission Orders under this Part

Service of orders

117(1) Every order made by the Commission under this Part shall be served in the manner determined by the Commission on the person affected by it or that person's authorized agent or solicitor, within 10 days from the time the order is signed, or within any longer time the Commission may direct.

(2) This section does not apply to any order of the Commission that is a regulation within the meaning of the *Regulations Act* or to an order of the Commission prescribing regulations.

RSA 2000 cP-45 s117;2007 cA-37.2 s82(25)

118 Repealed 2007 cA-37.2 s82(25).

Enforcement of orders

119(1) The Commission may take any steps and employ any persons necessary for the enforcement of any order made by it, and for the purposes of that enforcement

- (a) may forcibly or otherwise enter on, seize and take possession of the whole or part of the movable and immovable property of the owner of any public utility, together with the books and offices of it, and
- (b) may, until the order has been enforced, assume and take over the management of the undertaking for and in the interests of the shareholders and the public, and all or any of the powers, duties, rights and functions of the directors and officers of the undertaking in all respects, including the employment and dismissal of officers and servants of it, for the time the Commission continues to direct the management.

(2) On the Commission taking possession of an undertaking, every officer and employee of the owner of the public utility shall obey the orders of the Commission or of the person or persons that it places in authority in the management of any or all departments of the undertaking.

(3) The Commission may, on taking possession of an undertaking, determine, receive and pay out all money due to or owing by the owner of the public utility and give cheques, acquittances and receipts for money to the same extent and as fully as the proper officers of the undertaking could do if possession had not been taken.

(4) The costs and expenses of and incidental to proceedings to be taken by the Commission under this section are in the discretion of the Commission, and the Commission may direct by whom and to what extent they are to be paid.

RSA 2000 cP-45 s119;2007 cA-37.2 s82(25)

Default

120(1) When it is proved that the owner of a public utility has not complied with an order given by the Commission, if the Commission is of the opinion that there are no effectual means of compelling the owner to obey the order, the Commission, as an alternative, shall transmit to the Minister of Justice and Solicitor General a certificate signed by the Commission, which shall set out the nature of the order and the default of the owner in complying with it.

(2) After public notice in The Alberta Gazette of the receipt by the Minister of Justice and Solicitor General of the certificate, the default so established is ground in the case of a corporate owner for an action in the Court of Queen's Bench to dissolve the corporation or to revoke its charter.

(3) Repealed 2009 c53 s153.

RSA 2000 cP-45 s120;2007 cA-37.2 s82(25);
2009 c53 s153;2013 c10 s26

Construction of works

121 When, in the exercise of the powers conferred on it by this Act or by any special Act, the Commission directs any structure, appliances, equipment or works to be provided, constructed, reconstructed, altered, repaired, installed, used or maintained, it may order by what company, municipality or persons interested and when or within what time and on what terms and conditions as to the payment of compensation or otherwise and under what supervision that work is to be carried out.

RSA 2000 cP-45 s121;2007 cA-37.2 s82(25)

Emergency orders

122 No order involving an outlay, loss or deprivation to the owner of a public utility or to a municipality or person may be made without due notice and full opportunity to all parties concerned to be heard at a public sitting of the Commission, except in case of urgency, and, in that case, as soon as practicable afterwards, the Commission shall, on the application of any party affected by the order, rehear and reconsider the matter and make any order that seems just.

RSA 2000 cP-45 s122;2007 cA-37.2 s82(25)

Notice to employees

123 An owner of a public utility shall, as soon as possible after having received or having been served with an order or other document of the Commission, give notice of it to each of the owner's officers and servants performing duties that are or may be affected by it, by delivering a copy to the officer or servant or by posting a copy in some place where the officer's or servant's work or duties, or some of them, are to be performed.

RSA 2000 cP-45 s123;2007 cA-37.2 s82(25)

Division 7 Offences

Offences and penalties

124(1) A person who fails to comply with this Act or the regulations is guilty of an offence.

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

- (a) to do an act or thing prohibited by this Act or the regulations, or
- (b) to omit to do an act or thing required to be done by this Act or the regulations

is guilty of an offence.

(3) A person who is guilty of an offence under this Act is liable to a fine not exceeding \$3 000 000 for each day or part of a day on which the offence occurs or continues.

(4) Where a person is convicted of an offence under this Act and the court is satisfied that as a result of the commission of the offence the person derived an economic benefit directly or indirectly, the court may order the person to pay, in addition to a fine under subsection (3), a fine in an amount equal to the court's estimate of the amount of the economic benefit.

(5) A prosecution may not be commenced after

- (a) 3 years from the date that the facts that constitute the alleged offence become known to the Commission, or
- (b) 6 years from the date of the occurrence of the alleged offence,

whichever occurs first.

RSA 2000 cP-45 s124;2007 cA-37.2 s82(25)

125 to 128 Repealed 2007 cA-37.2 s82(25).



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