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## **HYDRO AND ELECTRIC ENERGY ACT**

### **Chapter H-16**

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

### Interpretation

**1(1)** In this Act,

- (a) “Board” means the Energy Resources Conservation Board;
- (b) “electric distribution system” means any system, works, plant, equipment or service for the delivery, distribution or furnishing of electric energy directly to the consumers, but does not include a power plant or transmission line;
- (c) “electric energy” in addition to its ordinary meaning includes
  - (i) energy associated with an electromotive force, and
  - (ii) power and reactive power and other electromagnetic effects associated with electric energy;
- (d) “highway authority” means
  - (i) the council of a municipality as to public highways subject to its control and management,
  - (ii) the Minister of Infrastructure as to public highways subject to that Minister’s direction, control and management, or
  - (iii) the Minister responsible for the *Special Areas Act*, as to public highways in a special area that are subject to that Minister’s direction, control and management;
- (e) “hydro development”
  - (i) means a project for the furnishing of hydro energy to a power plant, and
  - (ii) includes dams, diversion works, water conduits and all structures, machinery, appliances, fixtures and equipment, and all appurtenances and land and rights of way required in connection with that project;
- (f) “hydro energy” means energy associated with the motion or the position and potential motion of water;
- (g) “industrial system” means the whole or any part of an electric system primarily intended to serve one or more

industrial operations of which the system forms a part and designated by the Board as an industrial system;

- (h) “local authority” means
  - (i) the corporation of a city, town, village, municipal district or Metis settlement,
  - (ii) in the case of an improvement district, the Minister responsible for the *Municipal Government Act*, or
  - (iii) in the case of a special area, the Minister responsible for the *Special Areas Act*,
- (i) “municipality” means a city, town, village or municipal district and includes a Metis settlement;
- (j) “person” includes a municipal corporation or other corporation;
- (k) “power plant” means the facilities for the generation of electric energy from any energy source;
- (l) “public highway” means any land owned by the Crown or a local authority that is used or surveyed for use as a public highway, road, street or lane, or other public way;
- (m) “service area” means the area in which an electric distribution system may distribute electric energy;
- (n) “substation” means a part of a transmission line that is not a transmission circuit and includes equipment for transforming, compensating, switching, rectifying or inverting of electric energy flowing to, over or from the transmission line;
- (o) “transmission line” means a system or arrangement of lines of wire or other conductors and transformation equipment, wholly in Alberta, whereby electric energy, however produced, is transmitted in bulk, and includes
  - (i) transmission circuits composed of the conductors that form the minimum set required to so transmit electric energy,
  - (ii) insulating and supporting structures,
  - (iii) substations,
  - (iv) operational and control devices, and

- (v) all property of any kind used for the purpose of, or in connection with, or incidental to, the operation of the transmission line,

but does not include a power plant or an electric distribution system.

**(2)** The decision of the Board is final as to whether

- (a) a definition in subsection (1) is applicable in a particular case, or
- (b) any line or system or installation is, or is part of, a power plant, a transmission line, industrial system or an electric distribution system.

RSA 1980 cH-13 s1;1986 c15 s9;1990 cM-14.3 s271;  
1994 cM-26.1 s642(30);1995 c24 s99(9)

**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.

RSA 1980 cH-13 s2;1995 cE-5.5 s82

**Guidance to Board**

**3(1)** Where the Board is considering

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

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

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

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

(2) Subsection (1)(c) applies to the consideration by the Board of an application made after January 1, 1996.

RSA 2000 cH-16 s3;2003 cE-5.1 s164

#### **Designation of electric system as industrial system**

**4(1)** The Board may designate the whole or any part of an electric system as an industrial system.

(2) Where the Board is considering an application for designation as an industrial system, the Board shall have regard to the following principles:

- (a) the designation must be consistent with the objective of giving appropriate economic signals so that integrated industrial processes can develop their own internal supply of electricity where that is the most economical source of generation;
- (b) the designation must support
  - (i) the development of the economical supply of generation to meet the requirements of integrated industrial processes,
  - (ii) the efficient exchange, with the interconnected electric system, of electric energy that is in excess of the industrial system's own requirements, and
  - (iii) the making of decisions respecting the location of generation and consumption facilities so that the efficiency of the interconnected electric system is improved, including improved voltage stability and

reduction of losses and congestion on transmission lines;

- (c) the designation must not facilitate
  - (i) the development of independent electric systems that attempt to avoid costs associated with the interconnected electric system, and
  - (ii) uneconomical by-pass of the interconnected electric system;
- (d) duplication of the interconnected electric system must be avoided where it is more economical to use the transmission facilities or electric distribution systems owned by persons in whose service area the industrial system is or will be located.

**(3)** The Board may make a designation under subsection (1) if the Board is satisfied that all of the following criteria have been met:

- (a) the electric system includes a generating unit located on the property of the one or more industrial operations it is intended to serve, there is a high degree of integration of the electric system with one or more industrial operations the electric system forms part of and serves, and there is a high degree of integration of the components of the industrial operations;
- (b) the industrial operations process a feedstock, produce a primary product or manufacture a product;
- (c) there is a common ownership of all of the components of the industrial operations;
- (d) the whole of the output of each component within the industrial operation is used by that operation and is necessary to constitute its final products;
- (e) there is a high degree of integration of the management of the components and processes of the industrial operations;
- (f) the application to the Board for a designation under subsection (1) demonstrates significant investment in both the expansion or extension of the industrial operations processes and the development of the electricity supply;
- (g) where an industrial operation extends beyond contiguous property, the owner of the industrial operation satisfies the Board that the overall cost of providing the owner's own distribution or transmission facilities to interconnect the

integral parts of the industrial operation is equal to or less than the tariffs applicable for distribution or transmission in the service area where the industrial operation is located.

(4) Where the Board is not satisfied that subsection (3)(c) or (d) has been met, the Board may make a designation under subsection (1) if the Board is satisfied that all of the separately owned components and all of the industrial operations are components of an integrated industrial process.

(5) Where the Board is not satisfied that all of clauses (a) to (g) of subsection (3) have been met, the Board may make a designation under subsection (1) if the Board is satisfied that

- (a) all of clauses (a) to (g) of subsection (3) and subsection (4) have been substantially met, and
- (b) there is a significant and sustained increase in efficiency in a process of the industrial operation or in the production and consumption of electric energy by the industrial operation as a result of the integration of the electric system with the industrial operations the electric system forms part of and serves.

(6) The Board may make regulations

- (a) defining any word or expression used in this section but not defined in this Act;
- (b) respecting how the criteria in subsection (5)(b) may be met where a generating unit uses solution gas that would otherwise be flared to produce electricity.

(7) A regulation under subsection (6)(b) may be made only after the Board has assessed the impact on consumers of electricity in Alberta of the costs associated with the designation as industrial systems of facilities containing generating units that use solution gas that would otherwise be flared.

(8) In this section, “electric distribution system”, “electric energy”, “electricity”, “interconnected electric system” and “service area” have the meanings given to them in the *Electric Utilities Act*.

1998 c13 s42

## **Part 1**

### **Powers and Duties of the Board**

#### **Regulations**

**5(1)** The Board may make regulations



- (a) prescribing the information that is to be included in or is to accompany any application under this Act or the regulations;
- (b) excluding a hydro development, power plant, transmission line or electric distribution system of a kind described in the regulations from the application of any provision of this Act or the regulations, either generally or in a particular case;
- (c) prescribing the measures to be taken to identify and protect from public access any power plant or transmission line;
- (d) prescribing conditions subject to which the holder of an approval, permit or licence under this Act or a person proposing to construct a power plant, transmission line or electric distribution system may enter on land of another person in the absence of an agreement for the entry with the other person, which regulations shall be in addition to any applicable provisions of the *Surveys Act*;
- (e) prescribing the persons or class of persons who are required to notify the Board and provide the Board with the required information under section 13, 16 or 24;
- (f) prescribing the interconnected electric systems and communications systems to which section 18(1)(b) and (2)(c) apply;
- (g) regarding equipment, materials and installations that may be used in any power plant or transmission line or in any works, fittings, machinery, plant or appliance connected with it;
- (h) as to the measures to be taken in the construction, operation or abandonment of any power plant or transmission line for
  - (i) the protection of life, property and wildlife, and
  - (ii) the prevention and extinguishment of fires;
- (i) as to the inspection of power plants and transmission lines both during and after construction;
- (j) requiring and prescribing any tests and surveys;
- (k) requiring the submission to the Board of information obtained by tests or surveys;

- (l) respecting the assignment or transfer of approvals, permits or licences;
- (m) as to the records to be kept, the manner of keeping them and form of them, the persons by whom and the places at which they are to be kept and the length of time they are to be kept, and providing for their submission to the Board;
- (n) as to the reports to be made, the persons required to make them, the authority or person to whom they are to be made, the time of making them and their form, nature and extent;
- (o) as to when and to whom information contained in records, reports and information submitted to or acquired by the Board under this Act may be made available;
- (p) prescribing the methods and units to be used for the measurement of water, hydro energy or electric energy for the purposes of this Act;
- (q) establishing a schedule of fees
  - (i) pertaining to applications or proceedings under this Act or the regulations, and
  - (ii) for any other service by the Board;
- (r) prescribing a uniform system of accounts applicable to any person owning or operating a hydro development, power plant, transmission line or electric distribution system not exempted by the regulations or by the Board.

**(2)** When a regulation under subsection (1)(a) prescribes the information to be included in or to accompany an application pursuant to a given provision of the Act or the regulations, the Board is not precluded from considering or acting on an application pursuant to that provision that does not contain that information or from requiring additional information.

**(3)** The Board may prescribe or approve forms to be used under this Act or the regulations, either generally or for any particular or special case.

**(4)** Subject to the approval of the Minister responsible for the *Environmental Protection and Enhancement Act*, the Board may make regulations as to the measures to be taken in the construction, operation or abandonment of any power plant or transmission line for the control of pollution and ensuring environment conservation.

RSA 1980 cH-13 s3;1994 cG-8.5 s85;1998 c13 s42

**Inquiry by Board**

**6** The Board, when required by the Lieutenant Governor in Council shall, or on its own motion may, inquire into, examine and investigate any matter referred to in section 2.

RSA 1980 cH-13 s4

**Board orders**

**7** The Board, with the approval of the Lieutenant Governor in Council, may make any just and reasonable orders and directions that the Board considers necessary to effect the purposes of this Act and that are not otherwise specifically authorized by this Act.

RSA 1980 cH-13 s5

**Right of entry, etc.**

**8(1)** At any reasonable time, a member of the Board and any person authorized by the Board

- (a) shall have access to power plants, transmission lines and electric distribution systems and routes of proposed transmission lines, and to all buildings, installations, structures and land connected with them,
- (b) may enter on any land that the member or authorized person must cross to reach a power plant, transmission line or electric distribution system,
- (c) is entitled to make inspections, investigations or tests at power plants, transmission lines and electric distribution systems, and to take samples at power plants, and
- (d) is entitled to inspect all books, records and documents pertaining to hydro developments, power plants, transmission lines and electric distribution systems.

**(2)** A person authorized by the Board to exercise any of the powers referred to in subsection (1) shall, at any time during which the person is exercising those powers, produce on demand the person's certificate of authority from the Board.

**(3)** Any person who is the holder of an approval, permit or licence under Part 2 or 3, or any person in charge of a hydro development, power plant, transmission line or electric distribution system, or any contractor or employee of such a person

- (a) shall permit any member of the Board or any person authorized by the Board to exercise the powers conferred by subsection (1), and

- (b) shall assist any member of the Board or any person authorized by the Board in the exercise of the powers conferred by subsection (1).

RSA 1980 cH-13 s6

## **Part 2**

### **Hydro Developments, Power Plants and Transmission Lines**

#### **Hydro Developments and Power Plants**

##### **Approval of hydro development**

- 9(1)** No person shall construct a hydro development unless the Board, by order, has approved the construction of the hydro development in accordance with this section.
- (2)** When a person proposes to construct a hydro development, the person shall apply to the Board for an order approving the construction of the hydro development.
- (3)** When the Board receives an application for an order approving the construction of a hydro development, the Board shall make any investigation, make any inquiry and hold any hearings it considers necessary or desirable in connection with the application.
- (4)** The Board may, after making an investigation, inquiry and holding the hearings it considers necessary, refuse the application for an order of the Board for the construction of a hydro development.
- (5)** Subject to subsection (9), when the Board does not refuse an application to construct a hydro development it shall, after dealing with the matters mentioned in subsection (3), report on it to the Lieutenant Governor in Council.
- (6)** On a report being received by the Lieutenant Governor in Council pursuant to subsection (5), the Executive Council shall cause a Bill to be prepared for the authorization of an order of the Board for construction of the hydro development by the Legislature.
- (7)** The Bill for the authorization of an order of the Board for the construction of the hydro development shall be introduced in the Legislative Assembly as soon as it has been prepared if the Assembly is then sitting and if not, in the next session following the preparation of the Bill.
- (8)** On Royal Assent being given to a Bill for the authorization of an order of the Board for the construction of a hydro development, the Board shall, by order, approve the construction of the hydro

development and may make its approval subject to any conditions that it is empowered to impose under this Act and the regulations.

**(9)** The Board shall not approve the construction of a hydro development unless there is an Act authorizing an order of the Board for the construction of the hydro development.

RSA 1980 cH-13 s7;1986 cD-20.5 s18;1994 cG-8.5 ss85,95;  
1999 c26 s13

#### **Approval of operation of hydro development**

**10(1)** No person shall operate a hydro development unless the Board, by order and with the authorization of the Lieutenant Governor in Council, has approved the operation.

**(2)** The Lieutenant Governor in Council may make the Lieutenant Governor in Council's authorization under subsection (1) subject to any terms and conditions the Lieutenant Governor in Council considers necessary or desirable.

RSA 1980 cH-13 s8

#### **Approval of power plant**

**11** No person shall construct or operate a power plant unless the Board, by order, has approved the construction and operation of the power plant.

RSA 1980 cH-13 s9;1988 cS-13.75 s8;1994 cG-8.5 s85;  
1995 cE-5.5 s82;1999 c26 s13

#### **Survey of site**

**12** Notwithstanding sections 9, 10 and 11, the site of a hydro development or power plant may be surveyed without an order, approval or authorization.

RSA 1980 cH-13 s10

#### **Exemptions**

**13(1)** Sections 9, 10 and 11 do not apply to a person generating or proposing to generate electric energy solely for the person's own use, unless the Board otherwise directs.

**(2)** Notwithstanding subsection (1), a person generating or proposing to generate electric energy solely for the person's own use shall, if required by regulation to do so, immediately notify the Board of the use or proposed use and provide any details of the generation and use that the Board requires.

RSA 1980 cH-13 s11

## Transmission Lines

### Permit

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

**(2)** No person shall make a significant extension or alteration of a transmission line unless the Board has amended the person's permit or issued a new permit to cover the extension or alteration.

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

**(4)** This section does not preclude a person proposing to apply for a permit or the person's agents from

- (a) entering on any Crown or other land lying in the intended route of the transmission line to make surveys or examinations, or
- (b) negotiating for the acquisition of interests in land that may be required for the transmission line.

RSA 1980 cH-13 s12;1995 cE-5.5 s82

### Licence

**15** No person shall operate a transmission line unless the person is the holder of a subsisting licence to operate the transmission line, issued by the Board.

RSA 1980 cH-13 s14

### Exemption

**16(1)** Unless the Board otherwise directs, sections 14 and 15 do not apply

- (a) to a person transmitting or proposing to transmit electric energy over the person's own land solely for the person's own use by means of a line that does not cross a public highway, or
- (b) to the owner of an industrial system transmitting or proposing to transmit electric energy
  - (i) over land of which the owner of the industrial system is the owner or tenant, or

- (ii) across a public highway dividing land that is owned or leased by the owner of the industrial system

for use solely by that industrial system.

(2) Notwithstanding subsection (1), a person transmitting or proposing to transmit electric energy solely for the person's own use shall, where required by regulation to do so, immediately notify the Board of the use or proposed use and provide any details of the transmission and use that the Board requires.

RSA 1980 cH-13 s15;1998 c13 s42

### Relocation

**17(1)** The Board may, on any terms and conditions it considers proper, direct a permittee or licensee to alter or relocate any part of the permittee's or licensee's transmission line if in the Board's opinion the alteration or relocation would be in the public interest.

(2) The Board may, in an order under subsection (1), provide for the payment of compensation and prescribe the persons by whom and to whom the compensation is payable.

(3) When an order under this section provides for the payment of compensation, the Board may at any time provide that if agreement on the amount of compensation cannot be reached between the parties, the amount is to be determined by the Public Utilities Board on the application of either party.

RSA 1980 cH-13 s16

### Connections

**18(1)** The owner or operator of a power plant, transmission line or electric distribution system shall not connect that power plant, transmission line or electric distribution system, or cause or permit it to be connected,

- (a) to any other power plant, transmission line or electric distribution system, unless the connection is in accordance with an order under this section, or
- (b) to any industrial system or other service where the connection may seriously affect the operation of an interconnected electric system or a communications system as prescribed in the regulations.

(2) The Board, either on its own initiative or on application or complaint in writing, may, with the authorization of the Lieutenant Governor in Council and by order in writing directed to the owner of a power plant, transmission line or electric distribution system,

- (a) if on the application of the owner or operator, approve the plans of the owner subject to any modification or alteration the Board considers desirable, or deny the application,
- (b) require the owner to connect the owner's works with other works or proposed works owned by the owner or by any other owner of a power plant, transmission line or electric distribution system,
- (c) require the owner to suspend the use of any connection if, in the opinion of the Board, the continuation of a connection may seriously affect the operation of any interconnected electric system or communications system, or
- (d) require the owner to share and participate or otherwise combine its interests for the transmission or distribution of electric energy with any other owner of a transmission line or electric distribution system,

and may prescribe any terms and conditions the Board considers suitable.

**(3)** Repealed 2003 cE-5.1 s164.

**(4)** Notwithstanding subsection (2), the Board may issue a direction under that subsection without the authorization of the Lieutenant Governor in Council when the interconnection is not for the purpose of interprovincial or international transmission of electric energy.

**(5)** The owner or operator of a power plant, transmission line or electric distribution system applying for an order for the connection of its works with other works or proposed works shall file with the Board

- (a) particulars of the proposed connection,
- (b) if the other works or proposed works are those of another owner, particulars of the operating agreement with the other owner, and
- (c) any related information that the Board requires.

**(6)** When the Board directs anything to be done under this section, it may also order when or within what time and on what terms and conditions, except as to the amount, as to payment of compensation or otherwise and under what supervision the thing directed to be done is to be carried out.



(7) When as a result of an order under this section compensation is payable and agreement on the amount of compensation cannot be reached, the amount shall be determined by the Public Utilities Board on the application of an interested party.

RSA 2000 cH-16 s18;2003 cE-5.1 s164

#### **Power of Board re applications**

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

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

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

RSA 1980 cH-13 s18;1982 c22 s3;1986 cD-20.5 s12;  
1994 cG-8.5 ss85,95;1999 c26 s13

#### **Contingency plans**

**20(1)** The holder of an approval, permit or licence under this Part shall prepare and file with the Board contingency plans satisfactory to the Board setting out the methods by which the holder intends to avoid or minimize the effect of any system emergency or large scale interruption with respect to the supply of electric energy on the holder's electric system or on any interconnected electric system.

(2) In the event of a system emergency or large scale interruption with respect to the supply of electric energy, or when such an event may be reasonably foreseen, the holder of an approval, permit or licence shall

- (a) promptly report to the Board all necessary details and circumstances of the interruption or emergency, including any developing emergency that the operator may reasonably foresee,
- (b) take appropriate and prompt action to implement any contingency plans, to minimize the effects of the interruption or emergency and to maintain or restore an adequate supply of electric energy, and
- (c) comply promptly with any order or direction of the Board, whether written or oral, to minimize the effects of the interruption or emergency.

**(3)** Notwithstanding section 10, 11 or 15, when an operator has discontinued the operation of but has not dismantled or removed a hydro development, power plant or transmission line and an interruption or emergency is experienced or is reasonably foreseen, the Board may authorize, or with the approval of the Minister responsible for this Act may order, the operation of the hydro development, power plant or transmission line and associated facilities until the interruption or emergency or the foreseen interruption or emergency has passed.

**(4)** When an order of the Board is made under subsection (2) or (3), the order

- (a) if not made in writing, shall be confirmed in writing within 5 of the Board's working days from the date the order was made, and
- (b) shall be effective for not more than 30 days from the date the order was first made but may be extended if necessary for a further period or periods, not exceeding 30 days each, as may be appropriate in the circumstances.

**(5)** Emergencies, interruptions and necessary actions resulting from them in compliance with this section do not constitute a discontinuance of operation under section 21.

RSA 1980 cH-13 s19;1983 c27 s7;1986 c15 s10;1991 c21 s12

#### **Discontinuance of operations**

**21** No holder of an approval, permit or licence under this Part, and no person who operated a hydro development, power plant or transmission line on June 1, 1971, shall discontinue the operation of, or dismantle or remove any works or installations forming part of the holder's or person's hydro development, power plant or transmission line, unless the holder or person has obtained the authority in writing of the Board to do so.

RSA 1980 cH-13 s20

**Specific generating units**

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

RSA 2000 cH-16 s22;2003 cE-5.1 s164

**Corporations**

**23** No corporation shall acquire an approval, permit or licence by application, assignment or transfer unless the corporation is

- (a) registered under the *Companies Act*,
- (b) registered, incorporated or continued under the *Business Corporations Act*,
- (b.1) registered, incorporated or continued under the *Cooperatives Act*,
- (c) incorporated by an ordinance or an Act of the Legislature that empowers it to engage in the business of generation or transmission of electricity,
- (d) a bank,
- (e) a railway company incorporated under an Act of the Parliament of Canada,
- (f) a loan corporation or trust corporation,
- (g) an insurer licensed under the *Insurance Act*,
- (h) a municipal corporation, or
- (i) a co-operative association.

RSA 2000 cH-16 s23;RSA 2000 cI-3 s858;  
2001 cC-28.1 s455

### **Part 3**

## **Electric Distribution Systems**

**Exemption from Part 3**

**24(1)** A person distributing or proposing to distribute electric energy solely on land of which the person is the owner or tenant for use on that land and

- (a) not across a public highway, or
- (b) across a public highway if the voltage level of the distribution is 750 volts or less

is not subject to this Part unless the Board otherwise directs.

(2) A person referred to in subsection (1) shall, when required by the regulations to do so, immediately notify the Board of the use or proposed use of the distribution and shall provide any further information relating to the distribution or use that the Board requires.

RSA 1980 cH-13 s22;1990 c19 s1

#### **Approval of Board**

**25(1)** Notwithstanding anything in any other Act or in any approval or order issued pursuant to any other Act, no person shall construct or operate an electric distribution system or alter the service area of an electric distribution system without the approval of the Board, which approval shall include the designation by the Board of the person's service area.

(2) Approval under this section shall not be given unless the Board is satisfied, having regard to the availability of any other source of electric energy and to any other circumstances, that it is in the public interest having regard to those circumstances and the present and future need for the extension of electric service throughout Alberta.

RSA 1980 cH-13 s23

#### **Operation in another service area**

**26** Notwithstanding section 25, the Board may approve the construction or operation of an electric distribution system in the service area of another electric distribution system if the Board is satisfied that it is for the purpose of providing service to a consumer in that service area who is not being provided service by the distribution system approved to distribute electric energy in that service area.

1982 c22 s5

#### **Power of Board re applications**

**27(1)** On an application for an approval under this Part, the Board may

- (a) grant the approval as applied for,
- (b) grant the approval with any changes in the proposed service area that the Board prescribes, or
- (c) deny the application.

(2) In an approval under this Part, the Board shall prescribe any conditions that it considers suitable, and may state the period for which the approval is granted.

RSA 1980 cH-13 s24

**Service areas**

**28(1)** The Board shall, with respect to each electric distribution system, determine, subject to further order under this Part, as the service area of that electric distribution system all areas served with electric energy by it on June 1, 1971, and for the purposes of section 25 each electric distribution system is deemed to have the approval of the Board to supply electric energy in the service area so determined for it.

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

**(3)** If on June 1, 1971 a local authority owned and was operating an electric distribution system,

- (a) the Board, in determining the service area of the local authority's electric distribution system, shall include in it all parts of the local authority's municipality except those parts being served by another electric distribution system under an agreement or franchise between the local authority and the owner of the other electric distribution system,
- (b) notwithstanding anything in this section, the parts of the municipality included in the local authority's service area in accordance with clause (a) shall not be, or be included in, a part of the service area of any other electric distribution system, and
- (c) the provisions of section 29 apply, with all necessary modifications, to the reduction of the size of a service area as a result of clause (b).

**(4)** The Board shall notify the owner of each electric distribution system of its service area determined for it under this section.

RSA 1980 cH-13 s25

**Boundaries**

**29(1)** The Board, on the application of an interested person or on its own motion,

- (a) when in its opinion it is in the public interest to do so, and
- (b) on any notice and proceedings that the Board considers suitable,

may alter the boundaries of the service area of an electric distribution system, or may order that the electric distribution system shall cease to operate in a service area or part of it at a time fixed in the order.

**(2)** When a local authority owns and operates an electric distribution system within its municipality, the Board shall not reduce its service area without its consent.

**(3)** When a local authority that owns and operates an electric distribution system applies for an enlargement of its service area to include additional land in its municipality, the Board shall

- (a) in respect of land not included in the service area of another electric distribution system, grant the application, or
- (b) in respect of land included in the service area of another electric distribution system, grant the application unless after a public hearing the Board finds compelling reasons in the public interest not to do so, in which case the Board with the approval of the Lieutenant Governor in Council may deny the application in whole or in part,

and when the Board grants an application to which clause (b) applies, it shall stipulate any terms and conditions it considers reasonable including a stipulation of the date on which the alteration of the service areas comes into force.

**(4)** When an order made under subsection (1) or (3) reduces the service area of an electric distribution system, the Board, if it considers such a provision suitable, may make provision in the order for

- (a) payment of compensation to the owner of the electric distribution system whose service area is reduced,
- (b) the circumstances and conditions under which, and the time at which, that owner is entitled to receive compensation,
- (c) the matters in respect of which any compensation is payable, which matters may include
  - (i) any facilities transferred, based on reproduction cost new, less depreciation,
  - (ii) severance damages based on
    - (A) any period of time the Board considers reasonable, not exceeding the period that would

be remaining had the owner been a party to an agreement under section 45 of the *Municipal Government Act*, and

- (B) the actual load at the time the service area is reduced,

and

- (iii) the economic effect on the overall operation of the owner of the electric distribution system,
- (d) the persons by whom the compensation is payable and the apportionment of liability among those persons, and
- (e) compensation 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,

and provide that if agreement on the amount of any compensation provided for cannot be reached between the parties, the amount is to be determined by the Public Utilities Board on the application of either party.

(5) When the Board makes an order to which subsection (4) applies, it may defer the addition to the order of the provisions referred to in subsection (4) in a suitable case to give the parties the opportunity of making an agreement as to compensation to be paid.

(6) The amount of compensation payable by any person under an order under this section is a debt and is recoverable by the person entitled to receive the compensation under the order by action.

RSA 2000 cH-16 s29;2003 cE-5.1 s164

#### **Discontinuance of service**

**30(1)** No holder of an approval under this Part and no person who operated an electric distribution system on June 1, 1971 shall discontinue the operation of the holder's or person's electric distribution system or discontinue the distribution of electric energy in any area, except in a case of emergency or for repairs and maintenance, unless the holder or person has obtained authority in writing from the Board to do so.

(2) The Board may make any order on an application under this section that it considers just and proper and in the public interest.

RSA 1980 cH-13 s27

**Filing particulars of alterations**

**31** If the owner of an electric distribution system, by construction or alteration, changes the area actually served by the owner's electric distribution system, the owner shall within one year of the completion of the construction or alteration file with the Board particulars of the construction or alteration and a description of the actual area served by the electric distribution system as a result of the construction or alteration.

RSA 1980 cH-13 s28

**Rural electrification association**

**32(1)** If a rural electrification association

- (a) under an order made under section 29,
  - (i) has the size of its service area reduced, or
  - (ii) ceases to operate in a service area or part of it,
- or
- (b) on being authorized under section 30 to do so, discontinues the operation of its electric distribution system,

the Board may, when in the Board's opinion it is in the public interest to do so and on any notice and proceedings that the Board considers suitable, by order transfer to another person the service area or part of it served by the rural electrification association.

**(2)** When the Board makes an order under subsection (1), it may

- (a) for the purpose of ensuring the continued distribution of electric energy in the service area or part of it that was served by the rural electrification association, provide for
  - (i) the transfer of any facilities associated with the electric distribution system from the rural electrification association to another party, and
  - (ii) the operation of the electric distribution system or part of it by any party that the Board directs,

and

- (b) provide for any or all of the following:
  - (i) the payment of compensation, if any, and the matters in respect of which compensation is payable;



- (ii) the persons by whom compensation is payable and the apportionment of liability for the compensation among those persons;
- (iii) the determination by the Public Utilities Board of the amount of compensation if that amount cannot be agreed on between the parties;
- (iv) any other matters that may be necessary with respect to the transfer of the service area or part of it or with respect to the transfer of any facility associated with the electric distribution system from the rural electrification association to another person.

**(3)** In this section, “rural electrification association” means an association as defined in the *Rural Utilities Act* and that has as its principal object the supplying of electric energy in a rural area to the members of that association.

RSA 1980 cH-13 s29;1985 cR-21 s53

## **Part 4 Land and Rights of Way**

### **Definition**

**33** In this Part, “operator” means the holder of an approval to construct or operate a power plant or of a permit to construct or licence to operate a transmission line under Part 2.

RSA 1980 cH-13 s30

### **Crossing public highway**

**34(1)** An operator has the right to construct a transmission line on, across, over or under any public highway but in the exercise of that right

- (a) subsections (2) and (3) shall be complied with, and
- (b) care shall be taken to preserve, as far as possible, a free and uninterrupted passage of, to and over the portion of the public highway affected.

**(2)** No transmission line shall be constructed on, across, over or under any public highway without the approval of the highway authority having the direction, control and management of that public highway, or, if approval cannot reasonably be obtained from that authority, without the approval of the Board.

(3) An application for approval under subsection (2) shall be accompanied with a plan of the portion of the public highway affected.

RSA 1980 cH-13 s31

#### **Crossing bodies of water**

**35(1)** An operator has the right to construct a transmission line

- (a) over the land comprising the bed or shore of any river, stream, watercourse, lake or other body of water owned by the Crown in right of Alberta, and
- (b) on, across or under the land comprising the bed or shore of any river, stream, watercourse, lake or other body of water owned by the Crown in right of Alberta in any case where the description of land in a certificate of title issued to a person other than the Crown does not except, reserve or otherwise refer to the land comprising that bed or shore,

without the necessity of acquiring any estate or interest in that land from the Crown in right of Alberta but subject to estates or interests held by persons other than the Crown.

(2) When an operator proposes to construct a transmission line over land comprising the bed or shore of a river, stream, watercourse, lake or other body of water owned by the Crown in right of Alberta and a certificate of title issued to a person other than the Crown excepts, reserves or otherwise refers to the land comprising that bed or shore, the operator shall, before commencing construction, file with the Minister responsible for the *Environmental Protection and Enhancement Act* and the Minister responsible for the *Public Lands Act*, a copy of a plan of the right of way for the transmission line or the part of the plan that pertains to the land comprising that bed or shore, and in the construction of the transmission line, shall observe the conditions prescribed by either of those Ministers.

RSA 1980 cH-13 s32; 1986 cD-20.5 s18;  
1994 cG-8.5 ss85,95

#### **Crossing irrigation canals, etc.**

**36** No transmission line shall be constructed on, across, over or under an irrigation canal or ditch or a drainage ditch under the *Drainage Districts Act* without the approval of the owner or, if approval cannot reasonably be obtained from the owner, without the approval of the Board.

RSA 1980 cH-13 s33

**Expropriation**

**37(1)** When an operator requires an estate or interest in land, other than in patented land as defined in the *Metis Settlements Act*, for the purposes of a power plant or a transmission line, the estate or interest may be acquired in land owned by the Crown or by any other person

- (a) by negotiation with the owner,
- (b) by expropriation under the *Expropriation Act*, in the case of a power plant containing an isolated generating unit as defined in the *Electric Utilities Act*, or
- (c) by proceedings under the *Surface Rights Act*, in the case of a transmission line.

**(2)** When an operator requires an estate or interest less than the fee simple in patented land as defined in the *Metis Settlements Act* for the purposes of a power plant or transmission line, the estate or interest may be acquired

- (a) by negotiation,
- (b) under section 6 of the *Metis Settlements Land Protection Act*, in the case of a power plant containing an isolated generating unit as defined in the *Electric Utilities Act*, or
- (c) by proceedings under Part 4 of the *Metis Settlements Act*, in the case of a transmission line.

**(3)** Notwithstanding anything in this Act, any structure that is part of a transmission line and is located on land comprising a public highway, street, lane, road allowance or other public place and any power line attached to or resting on the structure may project into the airspace over the property adjoining that land without the consent of the owners or occupants of the adjoining property, to the greater of

- (a) the maximum extent to which any cross arm or any component attached to the cross arm other than a power line extends in any one direction from the rest of the structure, and
- (b) the maximum extent to which any power line
  - (i) that is attached to or rests on the structure, and
  - (ii) that in the absence of wind does not project over the adjoining property further than any part of the structure

is capable of extending over the adjoining property under maximum wind conditions.

**(4)** No person is entitled to any remedy or damages or any other compensation or relief as a result of the existence of a projection described in subsection (3).

RSA 2000 cH-16 s37;2003 cE-5.1 s164

#### **Right of way**

**38** When the location of a right of way for a transmission line is prescribed in a permit issued under section 14 or in a direction issued under section 17, the powers granted by this Part to the operator of a transmission line apply only to the land in that location.

RSA 1980 cH-13 s35

#### **Approval of TELUS Communications Inc.**

**39(1)** An operator shall not construct a transmission line or carry out any relocation or extension of a transmission line until

- (a) the operator has filed with TELUS Communications Inc. plans showing the location of the wires, their height above the ground, their depth below the ground and any other information that TELUS Communications Inc. requires, and
- (b) the plans have been agreed to by TELUS Communications Inc.

**(2)** Notwithstanding subsection (1), if agreement cannot be obtained or compensation cannot be agreed on, the matter is to be referred to the Public Utilities Board, whose decision on the matter is final and binding on all parties concerned.

RSA 1980 cH-13 s36;1983 c27 s7;1986 c15 s10;  
1988 cT-3.5 s54;1990 cA-23.5 s43

## Part 5 Provisions of General Application

### Approvals and Permits

#### Approval under other Acts

**40** An approval or permit granted pursuant to this Act does not relieve the owner or operator of a hydro development, power plant, transmission line or electric distribution system from the necessity of obtaining any order, permit, licence, consent or authorization that the owner or operator is required to obtain under any other Act or regulation under any other Act.

RSA 1980 cH-13 s37

#### Cancellation or suspension

**41(1)** When it appears to the Board or its authorized representative that there has been a failure to comply with the provisions of this Act, the regulations or the terms and conditions of an approval, permit or licence, or that a method or practice employed or any equipment or installation used is improper, hazardous, inadequate or defective, the Board may, by order,

- (a) cancel or suspend an approval, permit or licence, or
- (b) make any other order it considers suitable in the circumstances.

**(2)** Except when a condition exists that, in the opinion of the Board, is a danger to any person or to public or private property, the Board shall not

- (a) cancel or suspend an approval, permit or licence under subsection (1) until it has given the holder 30 days' notice, or any longer notice the Board considers suitable, to rectify the holder's default, or
- (b) require the doing of any act that will result in any significant expenses, loss or deprivation to the holder of an approval, permit or licence under this Act without due notice and full opportunity to be heard by the Board.

RSA 1980 cH-13 s38

#### Persons deemed to hold approvals, etc.

**42(1)** If on June 1, 1971 a person was

- (a) operating a hydro development, power plant, transmission line or electric distribution system, or

- (b) constructing a hydro development, power plant, transmission line or electric distribution system under authority provided for in previous legislation,

the person is until further order deemed to be the holder of a subsisting approval, permit or licence covering the operation or construction of the person's hydro development, power plant, transmission line or electric distribution system.

- (2) When a person is deemed to be the holder of an approval, permit or licence by reason of subsection (1), the Board may issue to the person an approval, permit or licence in substitution for the one the person is deemed to hold under subsection (1), on notice, if any, that the Board considers suitable.

RSA 1980 cH-13 s40

#### **Board's decision final**

**43** A decision or order of the Board under this Act is final and there is no appeal from it except as provided in the *Energy Resources Conservation Act*.

RSA 1980 cH-13 s41

### **Offences and Penalties**

#### **Offences**

**44(1)** A person who

- (a) whether as a principal or otherwise, contravenes any provision of this Act or of the regulations or of any order, direction, approval, permit or licence made pursuant to this Act,
- (b) either alone or in conjunction or participation with others causes any holder of an approval, permit or licence to contravene any provision referred to in clause (a), or
- (c) instructs, orders, directs or causes any officer, agent or employee of any holder of an approval, permit or licence to contravene any provision referred to in clause (a),

is guilty of an offence.

(2) A person who knowingly makes a false statement in any record required to be kept or any report required to be made by this Act or the regulations is guilty of an offence.

(3) A person

- (a) who wilfully or maliciously breaks up, pulls down or damages, injures, puts out of order or destroys any

transmission or other line or part of it owned by the holder of an approval, permit or licence under this Act, or

- (b) who wilfully does any other injury or damage for the purpose of obstructing, hindering or embarrassing the construction, completion, repairing, dismantling or taking up of any transmission or other line or any part of it owned by the holder of an approval, permit or licence under this Act,

is guilty of an offence.

RSA 1980 cH-13 s42

### Prosecution

**45** A prosecution under this Act may be commenced within 18 months of the commission of the offence but not afterwards.

RSA 1980 cH-13 s43

### Penalties

**46(1)** A person who is guilty of an offence under this Act is liable,

- (a) if a corporation, to a fine of not less than \$300 and not more than \$1000, and
- (b) if a person other than a corporation, to a fine of not less than \$50 and not more than \$500 and in default of payment to a term of imprisonment not exceeding 6 months.

and in the case of a continuing offence,

- (c) if a corporation, to a fine of not less than \$300 and not more than \$1000 for the first day on which the offence occurs and of not less than \$100 and not more than \$500 for each subsequent day during which the offence occurs, and
- (d) if a person other than a corporation, to a fine of not less than \$50 and not more than \$500 for the first day on which the offence occurs and of not less than \$25 and not more than \$250 for each subsequent day during which the offence occurs.

**(2)** A person other than a corporation who defaults in payment of a fine imposed for a continuing offence is liable to imprisonment for a term of not more than 6 months.

RSA 1980 cH-13 s44