

(Consolidated up to 254/2007)

ALBERTA REGULATION 66/2004

Electric Utilities Act

LIABILITY PROTECTION REGULATION

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Definitions

1(1) In this Regulation,

(a) “Act” means the *Electric Utilities Act*;

- (b) “ISO” means the Independent System Operator as defined in the Act.

(2) In this Regulation, the following words and phrases have the meaning given to them by the Act:

- (a) affiliate;
- (b) ancillary services;
- (c) Balancing Pool;
- (d) Commission;
- (e) electric distribution system;
- (f) generating unit;
- (g) interconnected electric system;
- (h) ISO tariff;
- (i) market;
- (j) Market Surveillance Administrator;
- (k) owner;
- (l) person;
- (m) power purchase arrangement;
- (n) transmission facility.

AR 66/2004 s1;254/2007

Part 1 Additional Liability Protection

Definitions for Part 1

2 In this Part,

- (a) “ancillary services provider” means a person that provides ancillary services to the ISO, directly or indirectly, including through a market or as a power purchase arrangement owner pursuant to a power purchase arrangement;
- (b) “black start service” means, following a partial or complete black out, the start up or attempted start up of a generating unit without external electrical supply and thereafter energizing or attempted energizing of a portion

of the interconnected electric system to allow other connected generating units to start up;

- (c) “black start service act” means any act or omission carried out or purportedly carried out by a black start service provider related solely to providing black start service to the ISO;
- (d) “black start service provider” means
 - (i) a person that provides black start service to the ISO,
 - (ii) a person who is a member of a joint venture with or is a partner of a person referred to in subclause (i), including a general partner of a limited partnership,
 - (iii) an affiliate of a person referred to in subclauses (i) and (ii), and
 - (iv) each director, officer and employee of a person referred to in subclauses (i) to (iii);
- (e) “power purchase arrangement owner” means the “Owner” as defined in a power purchase arrangement.

AR 66/2004 s2;221/2004

Liability protection for additional persons

3 For the purposes of section 90 of the Act, “agent or contractor” includes, without limitation,

- (a) an ancillary services provider,
- (b) a power purchase arrangement owner,
- (c) an owner of a transmission facility,
- (d) an owner of an electric distribution system,
- (e) a person who is a member of a joint venture with or is a partner of a person referred to in clauses (a) to (d), including a general partner of a limited partnership,
- (f) an affiliate of a person referred to in clauses (a) to (e), and
- (g) each director, officer and employee of a person referred to in clauses (a) to (f).

Black start service

4(1) No action lies against a black start service provider, and a black start service provider is not liable, for a black start service act.

(2) Subsection (1) does not apply to breach of contract.

(3) The ISO must indemnify a black start service provider in the same manner and in the same circumstances as described in section 90(5) of the Act, and the amounts paid to or on behalf of an additional ISO person under this section may be recovered in the manner described in section 90(6) of the Act.

AR 66/2004 s4;221/2004

Part 2 Additional Market Surveillance Persons

Definition for Part 2

5 In this Part, “additional market surveillance person” means each director, officer and employee of a market surveillance person described in section 91(1)(c)(iv) and (v) of the Act.

Liability protection for additional market surveillance persons

6(1) No action lies against an additional market surveillance person, and an additional market surveillance person is not liable,

- (a) in the same circumstances, and
- (b) to the same extent,

as the market surveillance person for a market surveillance act under section 91 of the Act.

(2) In this section,

- (a) “market surveillance act” has the same meaning as “market surveillance act” in section 91(1)(b) of the Act;
- (b) “market surveillance person” has the same meaning as “market surveillance person” in section 91(1)(c) of the Act.

MSA indemnity

7 The Market Surveillance Administrator must indemnify an additional market surveillance person in the same manner and in the same circumstances as described in section 91(5) of the Act, and the amounts paid to or on behalf of an additional market

surveillance person under this section may be recovered in the manner described in section 91(6) of the Act.

Part 3

Additional Balancing Pool Persons

Definition for Part 3

8 In this Part, “additional balancing pool person” means each director, officer and employee of a balancing pool person described in section 92(1)(a)(iv) and (v) of the Act.

Liability protection for additional balancing pool persons

9(1) No action lies against an additional balancing pool person, and an additional balancing pool person is not liable,

- (a) in the same circumstances, and
- (b) to the same extent,

as a balancing pool person for a balancing pool person act under section 92 of the Act.

(2) In this section,

- (a) “balancing pool person” has the same meaning as “balancing pool person” in section 92(1)(a) of the Act;
- (b) “balancing pool person act” has the same meaning as “balancing pool person act” in section 92(1)(b) of the Act.

Balancing Pool indemnity

10 The Balancing Pool must indemnify an additional balancing pool person in the same manner and in the same circumstances as described in section 92(5) of the Act, and the amounts paid to or on behalf of the additional balancing pool person may be recovered in the manner described in section 92(6) of the Act.

Part 4

Transitional Provisions and Expiry

Commission obligations respecting ISO tariff

11 The Commission must, in considering the ISO tariff or any application made by the ISO under section 30 of the Act for approval of a tariff,

- (a) approve amounts paid or that are payable by the ISO pursuant to any indemnity agreement that was entered into before the coming into force of this Regulation as a result of Board Decision 2003-059 or 2003-109, and
- (b) include provision in the ISO tariff for the timely recovery of those amounts.

AR 66/2004 s11:254/2007

Protection for ISO

12 No action lies against the ISO in respect of, and the ISO is not liable under, any indemnity agreement that was entered into before the coming into force of this Regulation as a result of Board Decision 2003-059 or 2003-109, except in respect of an act or omission that occurred before this Regulation comes into force.

Expiry

13 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on April 30, 2014.