Province of Alberta

ELECTRIC UTILITIES ACT

Statutes of Alberta, 2003
Chapter E-5.1

Current as of May 12, 2020

Office Consolidation

© Published by Alberta Queen's Printer

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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.

Regulations

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

	Alta. Reg.	*Amendments*
Electric Utilities Act		
Balancing Pool	158/2003	*191/2016, 196/2016, 160/2017*
Billing Regulation, 2003	159/2003	*288/2009, 224/2012, 60/2015, 190/2020*
Capacity Market Repeal Regulation	140/2019	
City of Medicine Hat Payment in Lieu of Tax	235/2003	*105/2005, 68/2008, 175/2008, 288/2009, 31/2012, 62/2013, 185/2013, 114/2018, 243/2018, 137/2019, 118/2021*
Code of Conduct	58/2015	*135/2018, 53/2019, 56/2019, 208/2020*
Common Facilities Costs	161/2003	*51/2013*
Distribution Tariff	162/2003	*6/2004, 254/2007, 224/2012, 11/2018, 209/2020*
Fair, Efficient and Open Competition	159/2009	*261/2018, 142/2019*
Flare Gas Generation	163/2003	*254/2007, 52/2013, 89/2013, 11/2018*

Independent Power and Small Power Repeal 51/2019
Isolated Generating Units and Customer Choice ..... 165/2003 ..... *274/2006, 254/2007, 53/2013, 11/2018, 83/2021*
Liability Protection ..... 66/2004 ..... *221/2004, 254/2007, 60/2014, 7/2018, 114/2018*
Micro-generation ..... 27/2008 ..... *233/2009, 288/2009, 234/2013, 203/2015, 218/2016, 140/2017, 135/2018*
Municipal Own-use Generation ..... 80/2009 ..... *11/2018, 135/2018*
Payment in Lieu of Tax ..... 112/2003 ..... *105/2005, 172/2006, 256/2007, 68/2008, 288/2009, 31/2012, 62/2013, 170/2017, 114/2018, 243/2018, 138/2019*
Power Purchase Arrangements ..... 167/2003 ..... *216/2005, 254/2007*
Power Purchase Arrangements Determinations ..... 175/2000 ..... *215/2001*
Regulated Rate Option ..... 262/2005 ..... *264/2007, 143/2010, 224/2012, 11/2013,* 59/2015, 138/2017, 135/2018, 199/2019
NOTE: AR 199/2019 comes into force on the repeal of An Act to Cap Regulated Electricity Rates
Roles, Relationships and Responsibilities, 2003 ..... 169/2003 ..... *315/2003, 25/2004, 108/2004, 108/2005, 265/2007, 224/2012, 11/2018, 56/2019, 82/2021*
Small Scale Generation ..... 194/2018 ..... *56/2019, 81/2019, 133/2019, 143/2019*
Transmission ..... 86/2007 ..... *121/2007, 255/2007, 160/2009, 288/2009, 153/2010, 156/2012, 145/2013, 175/2014, 7/2018, 114/2018, 242/2018, 136/2019*

ELECTRIC UTILITIES ACT

Chapter E-5.1

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

Part 1
Interpretation, Application and Purpose

Interpretation

1(1) In this Act,

(a) "affiliated electricity retailer" has the meaning given to it in regulations made by the Minister under section 108;

(a.1) "affiliated gas retailer" has the meaning given to it in regulations made by the Minister under section 108;

(a.2) "affiliated retailer" means an affiliated electricity retailer or an affiliated gas retailer;

(b) "ancillary services" means those services required to ensure that the interconnected electric system is operated in a manner that provides a satisfactory level of service with acceptable levels of voltage and frequency;

(c) "Balancing Pool" means the corporation established by section 75;

(d) "bill" or "billing" means an account for charges arising from the generation, transmission, distribution or sale of electricity;

(d.1)-(d.6) repealed 2019 c11 s2(2);

(e) "Commission" means the Alberta Utilities Commission established by the *Alberta Utilities Commission Act*;

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

(f) "conduct" includes acts and omissions;

(f.1) "critical transmission infrastructure" means a transmission facility designated under the Schedule as critical transmission infrastructure;

(g) "Crown" means the Crown in right of Alberta and includes an agent of the Crown;

(h) "customer" means a person purchasing electricity for the person's own use;

(i) "dispatch" means a direction from the Independent System Operator to an electricity market participant to cause, permit or alter the exchange of electric energy or ancillary services;

(j) "distributed generation" means a generating unit or energy storage resource that is interconnected with an electric distribution system;

(k) repealed 2007 cA-37.2 s82(4);

(l) "distribution tariff billing" means an account for electric distribution service provided to a retailer or a regulated rate provider;

(l.1) "electric distribution service" means the service required to transport electricity by means of an electric distribution system

(i) to customers, or

(ii) from distributed generation to the interconnected electric system,

and includes any services the owner of the electric distribution system is required to provide by the Commission or is required to provide under this Act or the regulations, but does not include the provision of electricity services to eligible customers under a regulated rate tariff;

(m) "electric distribution system" means the plant, works, equipment, systems and services necessary to distribute electricity in a service area, but does not include

(i) a generating unit, ~~or~~

(ii) a transmission facility, or

~~(m)~~(iii) an energy storage resource that is a component of an energy storage facility, except as approved by the Commission in accordance with section 25.1 of the *Hydro and Electric Energy Act*;~~;~~

(n) "electric energy" means the capability of electricity to do work, measured in kilowatt hours;

(o) "electric utility" means an isolated generating unit, a transmission facility or an electric distribution system that is used

(i) directly or indirectly for the public, or

(ii) to supply electricity to members of an association whose principal object is to supply electricity to its members,

the owner of which

(iii) is required by this Act or the regulations to apply to the Commission for approval of a tariff,

(iv) is permitted by this Act or the regulations to apply to the Commission for approval of a tariff, and has applied for that approval, or

(v) passes a bylaw that has been approved by the Lieutenant Governor in Council under section 138,

but does not include an arrangement of conductors intended to distribute electricity solely on property of which a person is the owner or a tenant, for use solely by that person and solely on that property or a facility exempted by Commission rules made under section 117;

(p) "electricity" means electric energy, electric power, reactive power or any other electromagnetic effects associated with alternating current or high voltage direct current electric systems;

(p.1) "electricity market" means any type of market through or under which an offer, purchase, sale, trade or exchange of electricity, electric energy, electricity services or ancillary services takes place in relation to the production or consumption of electricity, electric energy, electricity services or ancillary services;

(p.2) "electricity market participant" means

(i) Any person that supplies, generates, transmits, distributes, stores, trades, exchanges, purchases or sells electricity, electric energy, electricity services or ancillary services, or

(ii) any broker, brokerage or forward exchange that trades or facilitates the trading of electricity, electric energy, electricity services or ancillary services;

(q) "electricity services" means the services associated with providing electricity to a person, including the following:

(i) the exchange of electric energy;

(ii) making financial arrangements to manage financial risk associated with the pool price;

(iii) electric distribution service;

(iv) system access service;

(v) ancillary services;

(vi) billing;

(vii) metering;

(viii) performing load settlement;

(ix) any other services specified in the regulations made by the Minister under section 115;

(r) "eligible customer" has the meaning given to it in regulations made by the Minister under section 108;

(r.1) "energy storage facility" has the meaning given to it in the *Hydro and Electric Energy Act*;

(r.2) "energy storage resource" means the component of an energy storage facility that uses a technology or process that is capable of using electric energy as an input, storing the energy for a period of time and then discharging electric energy as an output, and includes a share of the following associated facilities that are necessary for the safe, reliable and economic operation of the energy storage resource, which may be used in common with other energy storage resources:

(i) fuel and fuel handling equipment;

(ii) cooling water facilities;

(iii) switch yards;

(iv) other items;

(s) "exchange" means to provide electric energy to or receive electric energy from the interconnected electric system;

(t) "farm transmission costs", in respect of an owner of an electric distribution system, means

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

(ii) an equivalent dollar amount per unit of electricity supplied by the electric distribution system to farm and

farm irrigation customers who are not members of rural electrification associations;

(u) "generating unit" means the component of a power plant that produces, from any source, electric energy and ancillary services, and includes a share of the following associated facilities that are necessary for the safe, reliable and economic operation of the generating unit, which may be used in common with other generating units:

(i) fuel and fuel handling equipment;

(ii) cooling water facilities;

(iii) switch yards;

(iv) other items;

but does not include an energy storage resource;
~~(iv)~~

(v) repealed 2018 c10 s2(2);

(w) "Independent System Operator" means the corporation established by section 7;

(x) "industrial system" has the meaning given to it in the *Hydro and Electric Energy Act*;

(y) "information systems" means systems for the collection, storage and dissemination of data that identify individual customer consumption of electricity from the interconnected electric system;

(z) "interconnected electric system" means all transmission facilities and all electric distribution systems in Alberta that are interconnected, but does not include an electric distribution system or a transmission facility within the service area of the City of Medicine Hat or a subsidiary of the City, unless the City passes a bylaw that is approved by the Lieutenant Governor in Council under section 138;

(aa) "interval meter" means a meter that

(i) measures, at intervals of 60 minutes or less, the amount of electricity consumed, and

(ii) satisfies the standards for revenue collection under the *Electricity and Gas Inspection Act* (Canada) and the *Weights and Measures Act* (Canada);

(bb) "isolated generating unit" means a generating unit that is determined to be an isolated generating unit or energy storage resource in accordance with the regulations made by the Minister under section 99;

(cc) "load settlement" means the process of determining the consumption of electric energy in each settlement interval of each customer in Alberta and providing that information to the Independent System Operator, retailers and regulated rate providers in order to identify responsibility for purchases of electric energy exchanged through the power pool;

(dd), (ee) repealed 2019 c11 s2(2);

(ff) "Market Surveillance Administrator" means the corporation continued by section 32 of the *Alberta Utilities Commission Act*;

(gg) "metering" means the purchase, installation, operation and reading of a meter that measures and records the amount of electricity that flows through a particular point;

(hh) "Minister" means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;

(ii) "municipality" means a city, town, village, summer village, municipal district or specialized municipality, a town under the *Parks Towns Act* or a municipality formed by special Act, and includes a Metis settlement established under the *Metis Settlements Act*;

(jj) "owner", in respect of a generating unit, an energy storage resource, a transmission facility or an electric distribution system, means the owner, operator, manager or lessee of that unit, storage resource, facility or system, or any person who is acting as an agent for the owner, operator, manager or lessee, and in the event that one of those persons becomes bankrupt or insolvent, includes any trustee, liquidator or receiver appointed in respect of the bankruptcy or insolvency;

(kk) "person" includes an individual, unincorporated entity, partnership, association, corporation, trustee, executor, administrator or legal representative;

(ll) "pool price" means the pool price established by the Independent System Operator under section 18(4);

(mm) "power pool" means the scheme operated by the Independent System Operator for

(i) exchange of electric energy, and

(ii) financial settlement for the exchange of electric energy;

(nn) "power purchase arrangement" means a power purchase arrangement included in Alberta Regulation AR 175/2000, but does not include

(i) the power purchase arrangement that applies to the H.R. Milner generating unit;

(ii) the power purchase arrangement that applies to the Sturgeon generating units;

(iii) a power purchase arrangement that expires in accordance with the unit effective term completion date specified in the power purchase arrangement;

(iv) a power purchase arrangement that is terminated under section 15.2 of the power purchase arrangement;

(v) a power purchase arrangement that is terminated by the Balancing Pool;

(oo) "rate classification customer" has the meaning given to it in regulations made by the Minister under section 108 or in a regulated rate tariff;

(pp) "rates" means prices, rates, tolls and charges;

(qq) "regulated rate provider" means the owner of an electric distribution system, or a person authorized by the owner that provides electricity services to eligible customers in the owner's service area under a regulated rate tariff;

(rr) "record" includes

(i) information or data regardless of its physical form or characteristics;

(ii) information or data in a form that can produce sound, with or without a visual form;

(iii) information or data in electronic, magnetic or mechanical storage;

(iv) electronic data transmission signals;

(v) any other thing that is capable of being represented or reproduced visually or by sound, or both;

(vi) anything in which information or data is stored, including software and any mechanism or device that produces the information or data;

(ss) "regulations" means

(i) regulations made under this Act;

(ii) Alberta Regulation AR 175/2000;

(iii) repealed 2018 c10 s2(2);

(ss.1) "reliability standards" means the reliability standards made under section 142(1)(l.1);

(ss.2) repealed 2019 c11 s2(2);

(tt) "retail electricity services" means electricity services provided directly to a customer but does not include

electricity services provided to eligible customers under a regulated rate tariff;

(uu) "retailer" means a person who sells or provides retail electricity services and includes an affiliated retailer;

(vv) "rural electrification association" means an association under the *Rural Utilities Act* that has as its principal object the supply of electricity to its members;

~~(x)~~ (vv.1) "self-supply" means the production of electric energy on a property of which a person is the owner or a tenant where any of the electric energy is consumed on that property by that owner or tenant;

(ww) "service area" means the area determined under the *Hydro and Electric Energy Act* from time to time in which

(i) the owner of an electric distribution system may distribute electricity, or

(ii) a rural electrification association may distribute electricity to its members;

(xx) "service area of the municipality" means the service area for the electric distribution system owned by a municipality or a subsidiary of a municipality;

(xx.1) "settlement interval" means

(i) if the ISO rules do not establish a period of time of less than 60 minutes as the settlement interval, 60 minutes, or

(ii) if the ISO rules establish a period of time of less than 60 minutes as the settlement interval, the period of time established by the ISO rules as the settlement interval;

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

(zz) "tariff" means a document that sets out

(i) rates, and

(ii) terms and conditions;

(aaa) "terms and conditions", in respect of a tariff, means the standards, classifications, regulations, practices, measures

and terms and conditions that apply to services provided under the tariff;

(bbb) "transmission facility" means an arrangement of conductors and transformation equipment that transmits electricity from

the high voltage terminal of the generation transformer to the low voltage terminal of the step down transformer operating phase to phase at a nominal high voltage level of more than 25 000 volts to a nominal low voltage level of 25 000 volts or less, and includes

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

(ii) insulating and supporting structures,

(iii) substations, transformers and switchgear,

(iv) operational, telecommunication and control devices,

(v) all property of any kind used for the purpose of, or in connection with, the operation of the transmission facility, including all equipment in a substation used to transmit electric energy from

(A) the low voltage terminal,

to

(B) electric distribution system lines that exit the substation and are energized at 25 000 volts or less,

and

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

but does not include

(vii) a generating unit,

~~or~~(viii) an electric distribution system

(ix) an energy storage resource, unless it is included in a needs identification document that has been approved by the Commission in accordance with section 34(3)(a);

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

(ddd) repealed 2007 cA-37.2 s82(4).

(2) A reference in this Act to

(a) "ISO bylaws" means bylaws made by the Independent System Operator under section 10;

(b) “ISO fees” means the fees established by the Independent System Operator under section 21;

(c) “ISO order” means an order made by the Independent System Operator under section 22;

(d) "ISO rules" means the rules made by the Independent System Operator under section 19 or 20 or the regulations;

(e) "ISO tariff" means the tariff prepared by the Independent System Operator under section 30 that has been approved by the Commission.

(3) For the purpose of determining whether a corporation is a subsidiary of another corporation under this Act or the regulations, section 2(4) of the *Business Corporations Act* applies.

(4) For the purposes of this Act, the "service area of the City of Medicine Hat" or "service area of the City" means

(a) the service area for the electric distribution system owned by the City of Medicine Hat or a subsidiary of the City on the date this section comes into force and includes any subsequent amendments made in accordance with section 29 of the *Hydro and Electric Energy Act*,

(b) any transmission facilities owned by the City of Medicine Hat or a subsidiary of the City that are located outside the City's service area described in clause (a) and that are used to provide electric distribution service to customers within the City's service area described in clause (a),

(c) any plant, works, equipment and systems owned by the City of Medicine Hat or a subsidiary of the City that are located outside the City's service area described in clause (a) and that are used to provide electric distribution service to customers within the City's service area described in clause (a),

(d) any properties located outside the City's service area described in clause (a) to which the City or a subsidiary of the City provides electric distribution service on the date this section comes into force, and any plant, works, equipment, systems and services necessary to provide electric distribution service to those properties, and

(e) any properties to which the City of Medicine Hat or a subsidiary of the City is authorized to provide electric distribution service pursuant to an approval by the Commission under section 26 of the *Hydro and Electric Energy Act*, and any plant, works, equipment and systems owned by the City of Medicine Hat or a subsidiary of the City necessary to serve those properties.

2003 cE-5.1 s1;2007 cA-37.2 s82(4);2009 c44 s2;
2012 c6 s2;2018 c10 s2(2);2019 c11 s2(2)

Exemptions from the Act

2(1) This Act does not apply to

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

(i) by the City or a subsidiary of the City and consumed in that service area, or

(ii) by generating units that produce electric energy, or energy storage resources that store electric energy, under contract to the City or to a subsidiary of the City and consumed in that service area,

unless the City passes a bylaw that is approved by the Lieutenant Governor in Council under section 138;

(b) the portion of electric energy that is self-supply produced on a property of which a person is the owner or a tenant and that is consumed solely on that property by that owner or tenant, except in respect of a rate included in a tariff approved by the Commission having regard to the principle set out in section 122(2)(b);

(b.1) the portion of electric energy produced by an industrial system that is consumed by the industrial system;

~~(b) electric energy produced on property of which a person is the owner or a tenant, and consumed solely by that person and solely on that property;~~

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

(i) Glenmore water treatment facility;

(ii) Bearspaw water treatment facility;

(iii) Turbo Expander;

(d) electric energy exempted by the Commission in accordance with rules made under section 117.

(2) The exemptions under subsection (1)(a) and sections 37(2)(a), 100 and 109 do not apply if the City of Medicine Hat or a subsidiary of the City does not provide the information or statements required by a regulation made under section 142(1)(h).

(3) The exemption under subsection (1)(b) applies whether or not the owner or tenant is the owner of the generating unit producing the electric energy.

2003 cE-5.1 s2;2007 cA-37.2 s82(4);2018 c10 s2(3)

Effect of the Act

3(1) Nothing in this Act requires

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

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

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

(3) An agreement existing when this Act or any portion of this Act or any Act that amends this Act comes into force and that is expressly or by necessary implication inconsistent with this Act or the Act that amends this Act is deemed to be amended to the extent necessary to make the agreement consistent with this Act or the Act that amends this Act.

Immunity for the Crown

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

(a) the *Electric Utilities Act*, SA 1995 cE-5.5, the *Electric Utilities Amendment Act*, *1998*, SA 1998 c13, or the *Electric Utilities Act*, RSA 2000 cE-5, or any regulations made under those Acts, or

(b) this Act or amendments to this Act or any regulations made or purported to be made under those Acts.

Purposes of the Act

5 The purposes of this Act are

(a) to provide an efficient Alberta electric industry structure including independent, separate corporations to carry out the responsibilities of the Independent System Operator and the Balancing Pool, and to set out the powers and duties of those corporations;

(b) to provide for a competitive power pool so that an efficient electricity market based on fair and open competition can develop, where all persons wishing to exchange electric energy through the power pool may do so on non-discriminatory terms and may make financial arrangements to manage financial risk associated with the pool price;

(c) to provide for rules so that an efficient electricity market based on fair and open competition can develop in which

neither the market nor the structure of the Alberta electric industry is distorted by unfair advantages of government-owned participants or any other participant;

(c.1) repealed 2019 c11 s2(3);

(d) to continue a flexible framework so that decisions of the electric industry about the need for and investment in generation of electricity are guided by competitive market forces;

(e) to enable customers to choose from a range of services in the Alberta electric industry developed by a competitive electricity market, and to receive satisfactory service;

(f) to continue the sharing, among all customers of electricity in Alberta, of the benefits and costs associated with the Balancing Pool;

(g) to continue the framework established for power purchase arrangements;

(h) to provide for a framework so that the Alberta electric industry can, where necessary, be effectively regulated in a manner that minimizes the cost of regulation and provides incentives for efficiency.

2003 cE-5.1 s5;2007 cA-37.2 s82(4);2018 c10 s2(4); 2019 c11 s2(3)

Expectations of market participants

6(1) Electricity market participants are to conduct themselves in the electricity market in a manner that supports the fair, efficient and openly competitive operation of the electricity market.

(2) Repealed 2019 c11 s2(4).

2003 cE-5.1 s6;2018 c10 s2(5);2019 c11 s2(4)

Part 2
Independent System Operator and Transmission

Division 1
Corporate Organization

ISO established

7(1) There is hereby established a corporation to be known as the Independent System Operator.

(2) The Independent System Operator consists of its members, who are appointed under section 8.

(3) The Independent System Operator is not a Provincial corporation for the purposes of the *Financial Administration Act*, the *Auditor General Act* or any other enactment.

(4) Repealed 2013 cF-14.5 s24.

(5) The Independent System Operator is not an agent of the Crown.

2003 cE-5.1 s7;2013 cF-14.5 s24

Appointment of ISO members

8(1) The Minister must appoint as members of the Independent System Operator not more than 9 individuals who, in the opinion of the Minister,

(a) are independent of any person who has a material interest in the Alberta electric industry, and

(b) will enhance the performance of the Independent System Operator in exercising its powers and carrying out its duties, responsibilities and functions.

(2) The Minister must designate one of the members of the Independent System Operator as chair.

(3) In accordance with ISO bylaws, the members of the Independent System Operator

(a) must recommend to the Minister individuals to be appointed as members for all appointments after the appointment of the first members, and

(b) may recommend to the Minister an individual to be designated as chair when a chair needs to be designated.

(4) The members of the Independent System Operator must oversee the business and affairs of the Independent System Operator.

(5) The term of office of a member is for not more than 3 years.

(6) A member is eligible to be appointed for not more than 3 terms of office.

(7) A member continues to hold office after the expiry of the member's term until the member is reappointed, the member's

successor is appointed or a period of 3 months has elapsed, whichever occurs first.

(8) A member is eligible to receive the reasonable remuneration and expenses set out in the ISO bylaws.

(9) In carrying out any duty, responsibility or function as a member of the Independent System Operator, the member must

(a) act honestly, in good faith and in the public interest,

(b) avoid conflicts of interest, and

(c) exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances.

Natural person powers

9(1) Subject to this Act and the regulations, the Independent System Operator has the rights, powers and privileges of a natural person.

(2) Except when the power to delegate is restricted by this Act, by regulations made under section 41 or 142 or by ISO bylaws, the Independent System Operator may delegate any power or duty conferred or imposed on it under this or any other enactment

(a) to any of the members, officers or employees of the Independent System Operator, or

(b) to any other qualified person the Independent System Operator considers appropriate.

(3) The Independent System Operator shall not delegate the power to approve annual financial statements or its power to make bylaws.

(4) The Independent System Operator shall not, without the consent of the Minister, delegate any of its powers, duties, responsibilities or functions to a regional transmission organization or enter into any agreement that has that effect.

(5) The Independent System Operator may enter into arrangements or agreements with responsible authorities in jurisdictions outside Alberta respecting the operations, standards and business practices relating to the interconnected electric system

(a) in Alberta, or

(b) in conjunction with the operation of electric systems outside Alberta.

(6) The Independent System Operator may not own or hold an interest in any transmission facility, energy storage resource, electric distribution system or generating unit.

Bylaws

10(1) The Independent System Operator must make bylaws governing its business and affairs.

(2) In its bylaws, the Independent System Operator

(a) must establish

(i) in accordance with the *Alberta Public Agencies Governance Act* and any applicable regulations under that Act, a code of conduct for its members, officers, employees and agents,

(ii) in accordance with the *Alberta Public Agencies Governance Act* and any applicable regulations under that Act, criteria and a process for recommending the appointment of members and designation of an individual as chair when an appointment or designation is needed,

(iii) in accordance with any applicable regulations under the *Alberta Public Agencies Governance Act*, the reasonable remuneration and payment for expenses members are eligible to receive, and

(iv) criteria relating to the removal of members and the process to be followed to recommend to the Minister the removal of a member,

and

(b) may establish

(i) the number of its members that constitutes a quorum at meetings of the Independent System Operator, and

(ii) rules respecting the number of its members that is required to carry out any decision in order for that decision to bind all of its members and to constitute a decision of the Independent System Operator.

(3) The Independent System Operator must make its bylaws available to the public.

2003 cE-5.1 s10;2009 cA-31.5 s36

Chief executive officer

11 The Independent System Operator must appoint a qualified individual to act as its chief executive officer.

Auditor

12 The Independent System Operator must appoint an independent auditor to review and audit its financial statements.

13 Repealed 2007 cA-37.2 s82(4).

ISO budget

14(1) The Independent System Operator must prepare a budget for each fiscal year setting out

(a) the estimated expenditures, costs and expenses of the Independent System Operator to carry out its powers, duties, responsibilities and functions, which may include expenditures for capital assets allocated over the expected useful life of the asset,

(b) the aggregate estimated expenditures, costs and expenses in the approved budget of the Market Surveillance Administrator,

(c) its estimated revenue from ISO fees,

(d) its estimated revenue from the ISO tariff, and

(e) its estimated revenue from fees levied and payments received under the *Renewable Electricity Act*.

(2) The Independent System Operator may amend its budget.

(3) The Independent System Operator must be managed so that, on an annual basis, no profit or loss results from its operation.

2003 cE-5.1 s14;2016 cR-16.5 s20

Records and reporting

15(1) The Independent System Operator must

(a) maintain accounting records and a record of its business and affairs,

(b) within 120 days after the end of its fiscal year, provide to the Minister an annual report

(i) reporting on its business and affairs in the fiscal year, and

(ii) containing its audited financial statements for the fiscal year,

and

(c) at any time when required to do so by the Minister, prepare and have audited financial statements relating to any part of its business and affairs for any period of time specified by the Minister.

(2) After providing the annual report to the Minister, the Independent System Operator must make it available to the public.

(3) The Independent System Operator must provide to the Minister any other reports and information relating to its duties, responsibilities and functions that the Minister requests.

2003 cE-5.1 s15;2018 c10 s2(6)

Division 2
Independent System Operator Duties and Authority

Duty to act responsibly

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

(1.1) Repealed 2019 c11 s2(5).

(2) Subsection (1) does not apply to the development of renewable electricity program proposals under the *Renewable Electricity Act*.

2003 cE-5.1 s16;2016 cR-16.5 s20;2018 c10 s2(7);
2019 c11 s2(5)

ALSA regional plans

16.1 In carrying out its mandate under this Act and other enactments, the Independent System Operator must act in accordance with any applicable ALSA regional plan.

2009 cA-26.8 s74

Duties of Independent System Operator

17 The Independent System Operator has the following duties:

(a) to operate the power pool in a manner that promotes the fair, efficient and openly competitive exchange of electric energy;

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

(c) to determine, according to relative economic merit, the order of dispatch of electric energy and ancillary services in Alberta and from scheduled exchanges of electric energy and ancillary services between the interconnected electric system in Alberta and electric systems outside Alberta, to satisfy the requirements for electricity in Alberta;

(d) to carry out financial settlement for all electric energy exchanged through the power pool at the pool price unless this Act or the regulations made by the Minister under section 41 provide otherwise;

(e) to manage and recover the costs of transmission line losses;

(f) to manage and recover the costs for the provision of ancillary services;

(g) to provide system access service on the transmission system and to prepare an ISO tariff;

(h) to direct the safe, reliable and economic operation of the interconnected electric system;

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

(j) to make arrangements for the expansion of and enhancement to the transmission system;

(k) to collect, store and disseminate information relating to the current and future electricity needs of Alberta and the capacity of the interconnected electric system to meet those needs, and make that information available to the public;

(l) to administer load settlement;

(l.01) repealed 2019 c11 s2(6);

(l.1) to monitor the compliance of electricity market participants with ISO rules and rules made under section 24.1;

(l.2) to develop proposals for renewable electricity programs under the *Renewable Electricity Act*;

(l.3) to implement renewable electricity programs and to administer renewable electricity support agreements under the *Renewable Electricity Act*;

(m) to perform any other function or engage in any activity the Independent System Operator considers necessary or advisable to exercise its powers and carry out its duties, responsibilities and functions under this Act or any other enactment.

2003 cE-5.1 s17;2007 cA-37.2 s82(4);2016 cR-16.5 s20; 2018 c10 s2(8);2019 c11 s2(6)

Power pool

18(1) The Independent System Operator must operate the power pool in a manner that is fair, efficient and open to all electricity market participants exchanging or wishing to exchange electric energy through the power pool and that gives all electricity market participants a reasonable opportunity to do so.

(2) All electric energy entering or leaving the interconnected electric system must be exchanged through the power pool unless section 39(1.1) or 105(1.1) apply or regulations made under section 41, section 99 or section 142 provide otherwise.

(3) A person shall not intentionally cause or permit electric energy or ancillary services to enter or leave the interconnected electric system except in accordance with ISO rules.

(4) The Independent System Operator must, in accordance with the ISO rules,

(a) establish the pool price for each settlement interval for electric energy exchanged through the power pool, which must not include any portion of the ISO fees, and

(b) make the pool price available to the public.

2003 cE-5.1 s18;2018 c10 s2(9);2019 c11 s2(28)

Direct sales agreements and forward contracts

19(1) In this section,

(a) "direct sales agreement" means an agreement relating to the sale or purchase of electric energy in accordance with the terms agreed to by the parties to the agreement, but does not include a forward contract;

(b) "forward contract" means an agreement relating to the sale or purchase of electric energy

(i) that is tradeable on a forward exchange, and

(ii) that provides for the future delivery of electric energy;

(c) "forward exchange" means an organization that is in the business of operating an electricity market for buying and selling forward contracts.

(2) Exchange of electric energy under a direct sales agreement or a forward contract must be undertaken in accordance with ISO rules, including rules

(a) setting out the requirements, including the information to be provided to the Independent System Operator, concerning a direct sales agreement or forward contract,

(b) authorizing persons other than the Independent System Operator to make financial settlement for electric energy sold or purchased under a direct sales agreement or forward contract,

(c) authorizing that financial settlement may be at a price other than the pool price for electric energy sold or purchased under a direct sales agreement or forward contract, and

(d) relating to the curtailment and certainty of supply of electric energy sold or purchased under a direct sales agreement or forward contract.

(3) A rule under subsection (2) shall not require a person buying or selling electric energy under a direct sales agreement or forward contract to disclose to the Independent System Operator information relating to the price of electric energy sold or purchased under the agreement or contract.

2003 cE-5.1 s19;2018 c10 s2(10)

ISO rules

20(1) The Independent System Operator may make rules respecting

(a) the practices and procedures of the Independent System Operator;

(b) the operation of the power pool and the exchange of electric energy through the power pool;

(c) the operation of the interconnected electric system;

(d) the provision of ancillary services;

(e) planning the transmission system, including criteria and standards for the reliability and adequacy of the transmission system;

(f) the processes for expansion and enhancement of the transmission system;

(g) the procedures to be observed in emergencies relating to the operation of the interconnected electric system;

(h) repealed 2007 cA-37.2 s82(4);

(i) direct sales agreements and forward contracts as defined in section 19(1);

(j) the granting of exemptions from the rules, and setting out the process for obtaining an exemption;

(k) procedures for resolving disputes between the Independent System Operator and electricity market participants, which may include arbitration under the *Arbitration Act*;

(k.1) any matter as the ISO considers necessary or advisable to carry out its duties, responsibilities and functions under the *Renewable Electricity Act*;

(l) any other matter the Independent System Operator considers necessary or advisable to carry out its duties, responsibilities and functions under this Act and the regulations.

(1.1) Subject to section 20.6(4), an ISO rule made under this section does not take effect unless it is approved by the Commission.

(2), **(3)** Repealed 2007 cA-37.2 s82(4).

2003 cE-5.1 s20;2007 cA-37.2 s82(4);2016 cR-16.5 s20; 2018 c10 s2(11);2019 c11 s2(28)

20.1 Repealed 2018 c10 s2(12).

Filing of ISO rules

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

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

(3) Subject to subsection (4), a notice under subsection (2)must include a copy of the ISO rule or set out where a copy may be obtained.

(4) If the Commission is satisfied on information provided by the Independent System Operator that it would not be in the public interest for an ISO rule to be available to the public, the notice under subsection (2) must contain a summary of the ISO rule and explain why a copy of the ISO rule is not included.

2007 cA-37.2 s82(4);2018 c10 s2(13);2019 c11 s2(7)

Approval of ISO rules

20.21(1) After considering an ISO rule, the Commission may, by order,

(a) approve the ISO rule,

(b) direct the Independent System Operator to revise the ISO rule or a provision of the ISO rule and approve the ISO rule subject to the Commission being satisfied that the ISO rule has been revised by the Independent System Operator, in accordance with the directions set out in the order, by the date set out in the order, or

(c) refuse to approve the ISO rule.

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

(a) that the ISO rule

(i) is not technically deficient,

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

(iii) is in the public interest,

and

(b) repealed 2019 c11 s2(8),

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

(3) Repealed 2019 c11 s2(8).

(4) The Independent System Operator has the onus of satisfying the Commission with respect to the matters referred to in subsection (2).

(5) The Independent System Operator must file with the Commission, for the Commission's review, an ISO rule that is revised in accordance with an order under subsection (1)(b).

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

(7) Except where section 20.6(4) applies, an ISO rule that is approved under subsection (1)(a) takes effect on the later of

(a) the date specified in the ISO rule,

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

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

(8) If the Commission confirms, in a manner determined by the Commission, that it is satisfied that an ISO rule has been revised in accordance with the directions set out in an order under subsection (1)(b), the revised ISO rule takes effect on the later of

(a) the date on which the revised ISO rule is filed,

(b) the date specified in the revised ISO rule, and

(c) the date specified by the Commission by order.

(9) Repealed 2019 c11 s2(8).

(10) If, under subsection (1)(b), the Commission directs the Independent System Operator to revise an ISO rule or a provision of an ISO rule that took effect under section 20.6, the ISO rule ceases to have effect under section 20.6 on the earlier of

(a) the date the revised ISO rule takes effect under subsection (8), and

(b) the date specified in the order directing the Independent System Operator to revise the ISO rule.

(11) If the Commission refuses to approve an ISO rule that took effect under section 20.6, the ISO rule ceases to have effect under section 20.6 on the later of

(a) the date of the order refusing to approve the ISO rule, and

(b) the date specified in the order refusing to approve the ISO rule.

2018 c10 s2(14);2019 c11 s2(8)

20.22 and **20.23** Repealed 2019 c11 s2(9).

20.3 to **20.5** Repealed 2018 c10 s2(15).

Expedited ISO rule

20.6(1) If, in the opinion of the Independent System Operator, a matter that is addressed in an ISO rule is urgent or there are other sufficient reasons that require that an ISO rule takes effect expeditiously, the Independent System Operator may

(a) file the ISO rule with the Commission for the Commission's consideration under subsection (2), and

(b) request the Commission's approval for the ISO rule to take effect under subsection (4).

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

(a) within 2 Commission business days after the date the ISO rule is filed if, in the material filed with respect to the ISO rule, the Independent System Operator indicates that a matter that is addressed in the ISO rule is urgent and affects the reliable supply of electricity or the safe and reliable operation of the interconnected electric system, or

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

(3) On considering an ISO rule under subsection (2), the Commission shall, by order,

(a) approve the ISO rule taking effect in accordance with subsection (4), if, on information provided by the Independent System Operator, the Commission is satisfied that a matter that is addressed in the ISO rule is urgent or there are other sufficient reasons that require that the ISO rule takes effect expeditiously, or

(b) refuse to approve the ISO rule taking effect in accordance with subsection (4) in any other case.

(4) If the Commission makes an order under subsection (3)(a) with respect to an ISO rule, the ISO rule takes effect on the later of

(a) the date of the order made under subsection (3)(a), and

(b) the date specified in the ISO rule.

(5) On making an order under subsection (3), the Commission shall publish notice of the ISO rule.

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

(7) Repealed 2019 c11 s2(10).

2007 cA-37.2 s82(4);2018 c10 s2(16);2019 c11 s2(10)

Availability of ISO rules

20.7(1) Subject to subsection (2), the Independent System Operator must make available to the public an ISO rule that is in effect.

(2) If the Commission is satisfied on information provided by the Independent System Operator that it would not be in the public interest for an ISO rule to be available to the public, the Independent System Operator must make available to the public a summary of the ISO rule that contains an explanation as to why the ISO rule is not being made available.

2007 cA-37.2 s82(4)

Duty to comply with ISO rules and reliability standards

20.8 An electricity market participant must comply with

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

(b) the reliability standards.

2007 cA-37.2 s82(4);2009 c44 s2;2019 c11 s2(11)

Process for proposing changes to ISO rules

20.81 Subject to any regulations under section 41(1)(a), the Independent System Operator shall establish a process for electricity market participants and interested parties to propose rules and changes to ISO rules for the Independent System Operator's consideration.

2018 c10 s2(17);2019 c11 s2(28)

Commission rules

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

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

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

(i) respecting the procedures and processes that the Independent System Operator must follow in developing ISO rules;

(ii) respecting the filing of ISO rules, including the form and content of filings;

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

2007 cA-37.2 s82(4);2018 c10 s2(18);2019 c11 s2(12)

ISO fees

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

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

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

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

(2) The fees must be just and reasonable and may be varied from time to time.

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

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

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

(6) The Independent System Operator must maintain a current schedule of its fees and make the schedule available to the public.

2003 cE-5.1 s21;2007 cA-37.2 s82(4);2019 c11 s2(13)

Contravention of ISO rule

21.1 Except as otherwise provided by the regulations, if the Independent System Operator suspects that an electricity market participant has contravened an ISO rule or a reliability standard, the Independent System Operator must refer the matter to the Market Surveillance Administrator.

2007 cA-37.2 s82(4);2009 c44 s2;2019 c11 s2(14)

Failure to pay ISO fee

22(1) If an electricity market participant fails to pay an ISO fee, the Independent System Operator may refer the matter to the Commission.

(2) If the Commission is satisfied that an electricity market participant has failed to pay an ISO fee, the Commission may order the electricity market participant to pay the ISO fee and may impose an administrative penalty on the electricity market participant under section 63 of the *Alberta Utilities Commission Act*.

2003 cE-5.1 s22;2007 cA-37.2 s82(4);2019 c11 s2(15)

23 and **24** Repealed 2007 cA-37.2 s82(4).

Load settlement rules

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

(a) the conduct of load settlement by electricity market participants,

(b) the establishment of processes, procedures, standards, reports and controls required to determine the allocation for each settlement interval of electric energy to sites and to customers,

(c) the determination, collection and storage of site, metering and other data in order to provide necessary measurement data,

(d) the development and use of customer load profiles to determine the allocation for each settlement interval of electric energy to sites that do not have interval meters,

(e) the transfer of data among electricity market participants,

(f) the payment to the Commission of professional and other costs relating to the development and implementation of the rules and by whom the costs are to be paid,

(g) incentives for efficient performance of load settlement, and

(g.1) repealed 2019 c11 s2(16),

(h) any other matter the Commission considers necessary and advisable relating to load settlement.

(2) The Independent System Operator must administer load settlement in accordance with the rules made under subsection (1).

(3) An electricity market participant must comply with rules made by the Commission under subsection (1).

(4) On referral by the Independent System Operator, on application or on its own initiative, the Commission may determine whether an electricity market participant is complying with the rules respecting load settlement.

(5) If the Commission is of the opinion that an electricity market participant has failed or is failing to comply with the rules respecting load settlement, the Commission may by order do all or any of the following:

(a) direct the electricity market participant to comply with the rules or to take any action to improve load settlement that the Commission considers just and reasonable;

(b) direct the electricity market participant to pay or provide a credit in an amount specified by the Commission to a person determined by the Commission who has suffered loss or damage resulting from the failure of the electricity market participant to comply with the rules to compensate that person;

(c) prohibit the electricity market participant from engaging in any activity or conduct that the Commission considers to be detrimental to load settlement;

(d) impose an administrative penalty under section 63 of the *Alberta Utilities Commission Act*.

2007 cA-37.2 s82(4);2018 c10 s2(19);2019 c11 s2(16)

Division 3
Recourse to the Commission

Complaints to the Commission

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

(a) about an ISO fee, or

(b) about an ISO rule that is in effect on one or more of the following grounds:

(i) that the ISO rule is technically deficient;

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

(iii) that the ISO rule is not in the public interest.

(c) repealed 2019 c11 s2(17).

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

(a) that the ISO rule may have an adverse effect on the structure and performance of the electricity market;

(b) that the ISO rule does not support the fair, efficient and openly competitive operation of the electricity market;

(c) that the ISO rule is not in the public interest.

(1.12) The Commission may make rules of practice governing complaints under this section.

(2) A complaint about an ISO fee must be made within 60 days after the day on which the electricity market participant receives notice of the fee.

(3) Repealed 2011 c11 s3.

(4) The Commission may decline to hold a hearing or other proceeding if, in the opinion of the Commission,

(a) the complaint is frivolous, vexatious, trivial or otherwise does not warrant a hearing or other proceeding, or

(b) the complaint or the substance of it has been referred to, should be referred to, or is the subject of investigation by, the Market Surveillance Administrator.

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

(a) that the ISO rule is technically deficient,

(b) that the ISO rule does not support the fair, efficient and openly competitive operation of the electricity market, or

(c) that the ISO rule is not in the public interest.

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

(a) that the ISO rule may have an adverse effect on the structure and performance of the electricity market,

(b) that the ISO rule does not support the fair, efficient and openly competitive operation of the electricity market, or

(c) that the ISO rule is not in the public interest.

(4.2) The Commission must decline to hold a hearing or other proceeding if, in the opinion of the Commission, the complaint or the substance of it relates to the Independent System Operator's compliance with the Commission rules made under section 20.9 in making the ISO rule.

(5) Unless the Commission otherwise orders, a complaint under this section does not relieve the person making the complaint from the obligation

(a) to pay an ISO fee pending a decision of the Commission, or

(b) to comply with an ISO order or ISO rule pending a decision of the Commission.

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

(a) determine the justness and reasonableness of the ISO fee and confirm, change or revoke the fee,

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

(c) confirm the ISO rule,

(d) disallow the ISO rule, or

(e) direct the Independent System Operator to change the ISO rule or a provision of the ISO rule.

(7) The Independent System Operator must file with the Commission an ISO rule that is changed pursuant to an order under subsection (6)(e).

(8) The Commission must publish notice of the filing of an ISO rule under subsection (7) as soon as possible and not later than 5 days after the day of filing.

(9) If the Commission confirms, in a manner determined by the Commission, that it is satisfied that an ISO rule has been changed in accordance with the directions in an order under subsection (6)(e), the changed ISO rule takes effect on the latest of

(a) the day on which it is filed,

(b) the day specified in the ISO rule, and

(c) the day otherwise ordered by the Commission.

2003 cE-5.1 s25;2007 cA-37.2 s82(4);2011 c11 s3;2018 c10 s2(20);2019 c11 s2(17)

Complaints about ISO

26(1) Any person may make a written complaint to the Commission about the conduct of the Independent System Operator.

(2) The Commission must dismiss the complaint, giving reasons for the dismissal, if the Commission is satisfied that

(a) the substance of the complaint has been or should be referred to the Market Surveillance Administrator for investigation,

(b) the complaint relates to a matter the substance of which is before or has been dealt with by the Commission or any other body, or

(c) the complaint is frivolous, vexatious or trivial or otherwise does not warrant an investigation or a hearing.

(3) The Commission may, in considering a complaint, do one or more of the following:

(a) dismiss all or part of the complaint;

(b) direct the Independent System Operator to change its conduct in relation to a matter that is the subject of the complaint;

(c) direct the Independent System Operator to refrain from the conduct that is the subject of the complaint.

(4) A decision of the Commission under subsection (2) or (3) is final and may not be appealed under section 29 of the *Alberta Utilities Commission Act*.

2003 cE-5.1 s26;2007 cA-37.2 s82(4);2018 c10 s2(21); 2019 c11 s2(18)

Security measures

27 The Independent System Operator may develop plans and implement measures for the purpose of ensuring that the Independent System Operator is able to exercise its powers and carry out its duties, responsibilities and functions in a manner that is secure against the threat of terrorist activity as that term is defined in the *Criminal Code* (Canada).

Division 4
Transmission Responsibilities of the Independent System Operator

ISO sole provider of system access service

28 The Independent System Operator is the sole provider of system access service on the transmission system.

Providing system access service

29 The Independent System Operator must provide system access service on the transmission system in a manner that gives all electricity market participants wishing to exchange electric energy and ancillary services a reasonable opportunity to do so.

2003 cE-5.1 s29;2019 c11 s2(28)

ISO tariff

30(1) The Independent System Operator must submit to the Commission, for approval under Part 9, a single tariff setting out

(a) the rates to be charged by the Independent System Operator for each class of system access service, and

(b) the terms and conditions that apply to each class of system access service provided by the Independent System Operator to persons connected to the transmission system.

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

(a) be sufficient to recover

(i) the amounts to be paid under the approved tariff of the owner of each transmission facility,

(ii) the amounts to be paid to the owner of a generating unit or energy storage resource in circumstances in which the Independent System Operator directs that a generating unit or energy storage resource must continue to operate, and the costs to make prudent arrangements to manage the financial risk associated with those amounts,

(ii.1) repealed 2019 c11 s2(19),

(iii) farm transmission costs, and

(iv) any other prudent costs and expenses the Commission considers appropriate,

(b) either be sufficient to recover the annualized amount paid to the Balancing Pool under section 82(7), or if the Independent System Operator receives an annualized amount under section 82(7), reflect that amount, and

(c) include any other costs, expenses and revenue determined in accordance with the regulations made by the Minister under section 99.

(3) The rates set out in the tariff

(a) shall not be different for owners of electric distribution systems, customers who are industrial systems or a person who has made an arrangement under section 101(2) as a result of the location of those systems or persons on the transmission system, and

(b) are not unjust or unreasonable simply because they comply with clause (a).

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

(a) including either or both of those costs in the tariff, in addition to the amounts and costs described in subsection

(2), in which case the Commission must include in the tariff the additional costs it considers to be prudent, or

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

2003 cE-5.1 s30;2007 cA-37.2 s82(4);2018 c10 s2(22); 2019 c11 s2(19)

Duty to comply with ISO tariff

31 An electricity market participant who obtains system access service must

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

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

2003 cE-5.1 s31;2019 c11 s2(20)

Payments by ISO

32 The Independent System Operator must

(a) pay the rates set out in the approved tariff of the owner of each transmission facility;

(b) pay incremental generation costs that are owing to the owner of a generating unit or energy storage resource if the Independent System Operator directs that a generating unit or energy storage resource must continue to operate, and make prudent arrangements to manage the financial risk associated with those costs;

(b.1) repealed 2019 c11 s2(21);

(c) pay farm transmission costs;

(d) pay isolated generation costs determined in accordance with the regulations made by the Minister under section 99;

(e) pay or collect the annualized amount in accordance with section 82(7);

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

2003 cE-5.1 s32;2018 c10 s2(23);2019 c11 s2(21)

Transmission system planning

33(1) The Independent System Operator must forecast the needs of Alberta and develop plans for the transmission system to provide efficient, reliable and non-discriminatory system access service and

the timely implementation of required transmission system expansions and enhancements.

(2) In developing plans under subsection (1), the Independent System Operator must consult on the plans, in accordance with the regulations, before completing the preparation of the plans.

(3) The Independent System Operator must provide to the Minister, in accordance with the regulations, the plans completed by it under subsection (1).

2003 cE-5.1 s33;2007 cA-37.2 s82(4);2009 c44 s2

Alleviation of constraints or other conditions on transmission system

34(1) When the Independent System Operator determines that an expansion or enhancement of the capability of the transmission system is or may be required to meet the needs of Alberta and is in the public interest, the Independent System Operator must, subject to the regulations, prepare and submit to the Commission for approval a needs identification document that

(a) describes the constraint or condition affecting the operation or performance of the transmission system and indicates the means by which or the manner in which the constraint or condition could be alleviated,

(b) describes a need for improved efficiency of the transmission system, including means to reduce losses on the interconnected electric system, or

(c) describes a need to respond to requests for system access service.

(2) On its own initiative or in response to views expressed by the Commission, the Independent System Operator may amend a needs identification document submitted to the Commission for approval.

(3) The Commission may, subject to the regulations,

(a) approve the needs identification document,

(b) refer the needs identification document back to the Independent System Operator with directions or suggestions for changes or additions, or

(c) refuse to approve the needs identification document.

2003 cE-5.1 s34;2007 cA-37.2 s82(4);2018 c10 s2(24)

Approval of cost estimate

34.1(1) In this section, "transmission facility" means a transmission facility for which the Commission is required by the regulations to approve cost estimates.

(2) Where construction of a transmission facility is proposed, the transmission facility owner must, in accordance with the regulations, submit an estimate of the project costs to the Commission for approval by the Commission.

2018 c10 s2(25)

Transmission facilities directions and proposals

35(1) The Independent System Operator may, at the time of preparing a needs identification document, after submitting a needs identification document to the Commission or after receiving Commission approval of a needs identification document,

(a) direct the owner of a transmission facility to submit, for Commission approval under the *Hydro and Electric Energy Act*, a transmission facility proposal to meet the need identified, or

(b) request electricity market participants to submit, for approval by the Independent System Operator, a proposal to meet the need identified.

(2) The owner of a transmission facility must comply with a direction from the Independent System Operator under subsection (1) unless the owner gives written notice to the Independent System Operator, giving reasons, that

(a) a real and substantial risk of damage to its transmission facility could result if the direction were complied with,

(b) a real and substantial risk to the safety of its employees or the public could result if the direction were complied with, or

(c) a real and substantial risk of undue injury to the environment could result if the direction were complied with.

(3) Subject to subsection (2), on receiving a direction the owner of a transmission facility must prepare an application to meet the requirements or objectives of the direction and apply to the Commission for approval under the *Hydro and Electric Energy Act*.

2003 cE-5.1 s35;2007 cA-37.2 s82(4);2019 c11 s2(28)

Other proposals to alleviate transmission constraints

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

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

(b) refuse the proposal.

(2) The Independent System Operator may specify the time within which the person who obtains approval of a proposal must apply to the Commission for approval under the *Hydro and Electric Energy Act*, if approval is required under that Act.

2003 cE-5.1 s36;2007 cA-37.2 s82(4);2019 c11 s2(22)

Transmission facility owner's tariff

37(1) Each owner of a transmission facility must submit to the Commission for approval a tariff setting out the rates to be paid by the Independent System Operator to the owner for the use of the owner's transmission facility.

(2) Subsection (1) does not apply to the City of Medicine Hat with respect to transmission facilities in the service area of the City.

2003 cE-5.1 s37;2007 cA-37.2 s82(4);2018 c10 s2(26)

Joint tariff

38 One or more owners of transmission facilities may agree with the Independent System Operator to prepare and submit to the Commission for approval one joint tariff that sets out the rates and terms and conditions applicable to the Independent System Operator and the owner.

2003 cE-5.1 s38;2007 cA-37.2 s82(4)

Duties of transmission facility owners

39(1) Each owner of a transmission facility must operate and maintain the transmission facility in a manner that is consistent with the safe, reliable and economic operation of the interconnected electric system.

(1.1) An owner of a transmission facility that owns an energy storage resource that has been included in a needs identification document that has been approved by the Commission in accordance with section 34(3)(a) may not offer electric energy from that energy storage resource to the power pool.

(2) Each owner of a transmission facility must, in a timely manner, assist the Independent System Operator in any manner to enable the Independent System Operator to carry out its duties,

responsibilities and functions.

(3) Each owner of a transmission facility must

(a) establish, in conjunction with owners of electric distribution systems, procedures and systems for load shedding in emergencies;

(b) provide the Independent System Operator in a timely manner with descriptions, ratings and operating restrictions relating to their transmission facility;

(c) inform the Independent System Operator in a timely manner of anticipated changes in their transmission facility that could affect the Independent System Operator in carrying out its duties, responsibilities and functions, including

(i) the capability of the transmission facility,

(ii) the status and availability of the transmission facility, including maintenance schedules, and

(iii) additions to, alterations to or decommissioning of transmission facilities or any part of them;

(c.1) install and remove meters and perform metering, including verifying meter readings and verifying accuracy of meters that are directly connected to the owner's transmission facility;

(d) comply with standards and practices established by the Independent System Operator to enable the Independent System Operator to carry out its duties, responsibilities and functions;

(e) provide the Independent System Operator with use of the owner's transmission facility for the purpose of carrying out the Independent System Operator's duties, responsibilities and functions.

(4) The owner of a transmission facility may refuse to comply with a direction from the Independent System Operator only if the owner notifies the Independent System Operator that the owner considers that

(a) a real and substantial risk of damage to its transmission facility could result if the direction were complied with;

(b) a real and substantial risk to the safety of its employees or the public could result if the direction were complied with;

(c) a real and substantial risk of undue injury to the environment could result if the direction were complied with.

2003 cE-5.1 s39;2007 cA-37.2 s82(4)

Industrial systems

40(1) Each owner of an industrial system must assist the Independent System Operator to enable the Independent System Operator to carry out its duties, responsibilities and functions.

(2) If, after taking into account the needs of the owner of an industrial system and the capability of the industrial system, the Independent System Operator is satisfied that transmission facilities of an industrial system are required to be used for system access service, the Independent System Operator may apply to the Commission for an order.

(3) If the Commission is satisfied

(a) access to an industrial system is required to meet the needs or anticipated needs to provide system access service, and

(b) the needs of the owner of the industrial system, including the capability and reliability of the owner's system, will continue to be met,

the Commission, by order, may grant access to the industrial system and, if so, may establish the rates, and terms and conditions under which the access is provided, or amend existing terms and conditions of the owner under this Act or the *Hydro and Electric Energy Act*.

2003 cE-5.1 s40;2007 cA-37.2 s82(4)

Division 5
Regulations

Regulations

41(1) The Minister may make regulations

(a) establishing standards, requirements or other controls applicable to the process established by the Independent System Operator under section 20.81, including regulations that determine whether, or that govern the determination as to whether, a person or entity is an interested party for the purpose of the process;

(a.1) establishing standards, requirements or other controls applicable to Commission rules made under section 20.9, including regulations that determine whether, or that govern

the determination as to whether, a person or entity is an interested party for the purpose of the Commission rules;

(a.2) adding to, clarifying, limiting or restricting any of the Independent System Operator's powers, duties, responsibilities and functions under this or any other enactment, or regulating how they are to be exercised;

(b) respecting exemptions from the requirement set out in section 17(d) or 18(2).

(2) If there is a conflict or inconsistency between the process established under section 20.81 or a Commission rule made under section 20.9 and a regulation made under subsection (1), the regulation prevails to the extent of the conflict or inconsistency.

2003 cE-5.1 s41;2018 c10 s2(28)

Part 2.1
Critical Transmission Infrastructure

41.1 Repealed 2012 c6 s3.

Non-application of ss34 to 36

41.2 Sections 34, 35 and 36 do not apply to critical transmission infrastructure.

2009 c44 s2

Direction to apply

41.3 Subject to the regulations, the Independent System Operator must, in a timely manner, direct a person determined under the regulations to make an application in a timely manner to the Commission under the *Hydro and Electric Energy Act* for an approval of critical transmission infrastructure.

2009 c44 s2;2012 c6 s4

Staged development of CTI referred to in Schedule

41.4(1) The Independent System Operator, with respect to the critical transmission infrastructure referred to in section 1(1) of the Schedule, shall, subject to the regulations, specify and make available to the public milestones that the Independent System Operator will use to determine the timing of the stages of the expansion of the terminals referred to in section 1(1)(a) and (b) of the Schedule.

(2) The transmission facilities referred to in section 4 of the Schedule shall be developed in stages in accordance with subsection (3).

(3) The facility referred to in section 4(a) of the Schedule shall be developed first, which may initially be energized at 240 kV, and the Independent System Operator shall, subject to the regulations, specify and make available to the public milestones that the Independent System Operator will use to determine the timing of the development of the facilities referred to in section 4(b) and (c) of the Schedule.

2009 c44 s2

Part 2.2 Repealed 2019 c11 s2(23).

Part 3 Repealed 2007 cA-37.2 s82(4).

Part 4
Balancing Pool

Division 1
Corporate Organization

Balancing Pool established

75(1) There is hereby established a corporation to be known as the Balancing Pool.

(2) The Balancing Pool consists of its members, who are appointed under section 76.

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

(4) Repealed 2013 cF-14.5 s24.

(5) The Balancing Pool is not an agent of the Crown.

2003 cE-5.1 s75;2013 cF-14.5 s24

Appointment of Balancing Pool members

76(1) The Minister must appoint as members of the Balancing Pool not more than 9 individuals who, in the opinion of the Minister,

(a) are independent of any person who has a material interest in the Alberta electric industry, and

(b) will enhance the performance of the Balancing Pool in exercising its powers and carrying out its duties, responsibilities and functions.

(2) The Minister must designate one of the members of the Balancing Pool as chair.

(3) In accordance with Balancing Pool bylaws, the members of the Balancing Pool

(a) must recommend to the Minister individuals to be appointed as members for all appointments after the appointment of the first members, and

(b) may recommend to the Minister an individual to be designated as chair when a chair needs to be designated.

(4) The members of the Balancing Pool must oversee the business and affairs of the Balancing Pool.

(5) The term of office of a member is for not more than 3 years.

(6) A member is eligible to be appointed for not more than 3 terms of office.

(7) A member continues to hold office after the expiry of the member's term of office until the member is reappointed, the member's successor is appointed or a period of 3 months has elapsed, whichever first occurs.

(8) A member is eligible to receive the reasonable remuneration and expenses set out in the Balancing Pool bylaws.

(9) In carrying out any duty, responsibility or function as a member of the Balancing Pool, the member must

(a) act honestly and in good faith,

(b) avoid conflicts of interest, and

(c) exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances.

Natural person powers

77(1) Subject to this Act and the regulations, the Balancing Pool has the rights, powers and privileges of a natural person.

(2) Except when the power to delegate is restricted by this Act, by regulations made under section 88 or 142 or by Balancing Pool bylaws, the Balancing Pool may delegate any power or duty conferred or imposed on it under this or any other enactment

(a) to any of the members, officers or employees of the Balancing Pool, or

(b) to any other qualified person the Balancing Pool considers appropriate.

(3) The Balancing Pool shall not delegate the power to approve annual financial statements or its power to make bylaws.

Bylaws

78(1) The Balancing Pool must make bylaws governing its business and affairs.

(2) In its bylaws the Balancing Pool

(a) must establish

(i) in accordance with the *Alberta Public Agencies Governance Act* and any applicable regulations under that Act, a code of conduct for its members, officers, employees and agents,

(ii) in accordance with the *Alberta Public Agencies Governance Act* and any applicable regulations under that Act, criteria and a process for recommending the appointment of members and designation of an individual as chair when an appointment or designation is needed,

(iii) in accordance with any applicable regulations under the *Alberta Public Agencies Governance Act*, the reasonable remuneration and expenses Balancing Pool members are eligible to receive, and

(iv) criteria relating to the removal of members and the process to be followed to recommend to the Minister the removal of a member,

and

(b) may establish

(i) the number of its members that constitutes a quorum at meetings of the Balancing Pool, and

(ii) rules respecting the number of its members that is required to carry out any decision in order for that decision to bind all of its members and to constitute a decision of the Balancing Pool.

(3) The Balancing Pool must make its bylaws available to the public.

2003 cE-5.1 s78;2009 cA-31.5 s36

Chief executive officer

79 The Balancing Pool must appoint a qualified individual to act as its chief executive officer.

Auditor

80 The Balancing Pool must appoint an independent auditor to review and audit its financial statements.

Committees

81 If the Balancing Pool establishes a committee to consult with electricity market participants or other persons, it must

(a) set up a process for appointing individuals to the committee,

(b) describe the committee's mandate, and

(c) specify the reasonable remuneration and expenses members of the committee are eligible to be paid for committee work.

2003 cE-5.1 s81;2019 c11 s2(28)

Budget

82(1) The Balancing Pool must prepare a budget for each fiscal year setting out the estimated revenues and expenses of the Balancing Pool to carry out its powers, duties, responsibilities and functions, which may include expenditures for capital assets allocated over the useful life of the asset.

(2) The Balancing Pool may amend its budget.

(3) The Balancing Pool, in establishing or amending its budget, must forecast its revenues and expenses and include an annualized amount.

(4) The Balancing Pool must notify the Independent System Operator of the annualized amount for each fiscal year.

(5) On receiving notice of the annualized amount, the Independent System Operator must include that amount in its tariff in accordance with section 30(2).

(6) The Commission must

(a) approve the annualized amount provided to the Independent System Operator by the Balancing Pool, without modification, and

(b) approve, with or without modification, the allocation ofthe annualized amount to the owners of electric distribution systems, industrial systems and persons that have made arrangements under section 101(2).

(7) The Balancing Pool and the Independent System Operator must co-operate in determining the appropriate timing and methodology of transferring the annualized amount

(a) to the Independent System Operator from the Balancing Pool, if the amount is a positive amount, or

(b) from the Independent System Operator to the Balancing Pool, if the amount is a negative amount.

(8) If in respect of any year the Independent System Operator and the Balancing Pool fail to agree on the timing and methodology of transferring the annualized amount, that amount must be transferred by the Independent System Operator to the Balancing Pool in equal monthly instalments.

(9) In this section, "annualized amount" means annualized amount as defined in or calculated under the regulations made under section 88.

2003 cE-5.1 s82;2007 cA-37.2 s82(4);2009 c44 s2

Loans to the Balancing Pool and guarantee

82.1 The President of Treasury Board, Minister of Finance may, on the recommendation of the Minister of Energy, make loans to the Balancing Pool and guarantee the obligations of the Balancing Pool.

2016 c28 s2

Balancing Pool investments

83(1) The Balancing Pool must follow prudent investment standards in making investment decisions relating to and in managing the balancing pool accounts.

(2) A prudent investment standard is a standard that, in the overall context of an investment portfolio, a reasonably prudent person would apply to investments made on behalf of another person with whom there exists a fiduciary relationship to make such investments without undue risk of loss or impairment and with a reasonable expectation of fair return or appreciation.

Records and reporting

84 The Balancing Pool must

(a) maintain accounting records and a record of its business and affairs,

(b) within 120 days after the end of its fiscal year, prepare and have audited financial statements of the balancing pool accounts in the preceding fiscal year,

(c) at any time when required to do so by the Minister, prepare and have audited financial statements relating to any part of its business and affairs for any period of time specified by the Minister,

(d) after the end of each fiscal year, provide the Minister a report containing

(i) its audited financial statements, and

(ii) a summary of the activities of the Balancing Pool relating to the balancing pool accounts in the year,

and

(e) make the report provided to the Minister available to the public.

Division 2
Balancing Pool Duties

Balancing Pool duties

85(1) The Balancing Pool has the following duties:

(a) to establish or continue one or more accounts which together are to be known as the balancing pool accounts;

(b) to manage generation assets in a commercial manner during the period the Balancing Pool holds generation assets;

(c) to organize the management of generation assets in a manner that is in keeping with the eligibility requirements for a person to hold a power purchase arrangement or an agreement or arrangement derived from a power purchase arrangement in accordance with the regulations made by the Minister under section 99;

(d) to sell generation assets when, in the opinion of the Balancing Pool, market conditions are such that a

competitive sale of the assets will result in the Balancing Pool receiving fair market value for the generation assets;

(e) to continue to hold the hydro power purchase arrangement and manage the payments associated with that power purchase arrangement;

(f) to participate in regulatory, dispute resolution and other proceedings and processes if, in the opinion of the Balancing Pool, it is necessary or advisable to do so in order to protect the interests of the Balancing Pool and the value of the Balancing Pool's assets;

(g) to manage risks prudently in all aspects of the Balancing Pool's operations;

(h) to ensure, in accordance with the regulations made under section 88, that any net amount in the balancing pool accounts that is greater than $0 or less than $0 is included in the ISO tariff;

(i) to oversee payments into or out of the balancing pool accounts in accordance with this Act and the regulations;

(j) to manage the balancing pool accounts so that no profit or loss results, after accounting for the annualized amount under section 82(7) as a revenue or expense of the Balancing Pool;

(k) to carry out any other function or duty given to it under the regulations.

(2) In this section, "generation assets" means

(a) power purchase arrangements held by the Balancing Pool that include the right to exchange electric energy and ancillary services, and

(b) agreements or arrangements derived from power purchase arrangements held by the Balancing Pool that include the right to exchange electric energy and ancillary services.

2003 cE-5.1s85;2009 c44 s2

Duty to act responsibly

86 The Balancing Pool must exercise its powers and carry out its duties in a manner that is responsible and efficient.

Division 3
Regulations

87 Repealed 2009 c44 s2.

Regulations

88 The Minister may make regulations

(a) respecting payments into and out of the balancing pool accounts and who is to make or receive the payments;

(a.1) defining "annualized amount" or determining how it is to be calculated;

(b) adding to, clarifying, limiting or restricting any of the Balancing Pool's powers, duties, responsibilities and functions or regulating how they are to be exercised.

(c) repealed 2009 c44 s2.

2003 cE-5.1 s88;2009 c44 s2

Part 5
Liability

Definition

89 In this Part, "affiliate" has the meaning given to it in the *Business Corporations Act*.

Liability protection of ISO

90(1) In this section,

(a) "direct loss or damage" does not include loss of profits, loss of revenue, loss of production, loss of earnings, loss of contract or any other indirect, special or consequential loss or damage whatsoever arising out of or in any way connected with an Independent System Operator act;

(b) "Independent System Operator act" means any act or omission carried out or purportedly carried out by an Independent System Operator person in exercising its powers and carrying out its duties, responsibilities and functions under this Act and the regulations or the *Utility Payment Deferral Program Act* and the regulations under that Act;

(c) "Independent System Operator person" means

(i) the Independent System Operator,

(ii) each member of the Independent System Operator,

(iii) each officer and employee of the Independent System Operator,

(iv) each agent or contractor of the Independent System Operator, and

(v) each affiliate of a person referred to in subclause (iv).

(2) No action lies against an Independent System Operator person, and an Independent System Operator person is not liable, for an Independent System Operator act.

(3) Subsection (2) does not apply

(a) where an Independent System Operator act is carried out by an Independent System Operator person that is not an individual, if the act constitutes wilful misconduct, negligence or breach of contract, or

(b) where an Independent System Operator act is carried out by an Independent System Operator person who is an individual, if the act is not carried out in good faith.

(4) Where, as a result of the operation of subsection (3), an Independent System Operator person is liable to another person for an Independent System Operator act, the Independent System Operator person is liable only for direct loss or damage suffered or incurred by that other person.

(5) In addition to any other indemnity the Independent System Operator may provide, where

(a) legal action has been commenced against an Independent System Operator person for an Independent System Operator act, and

(b) the Independent System Operator person is, as a result of the operation of subsection (2) or otherwise, not liable,

the Independent System Operator must indemnify that Independent System Operator person for, and pay to that Independent System Operator person, all of that Independent System Operator person's costs of defending the legal action, including all reasonable legal expenses and legal fees as between solicitor and client, and the amounts so paid to or on behalf of that Independent System Operator person are recoverable by the Independent System Operator in accordance with subsection (6).

(6) The amounts paid to or on behalf of an Independent System Operator person under subsection (5) may be recovered by the Independent System Operator through ISO fees established under section 21.

2003 cE-5.1 s90;2009 c53 s54;2020 cU-4 s31

91 Repealed 2007 cA-37.2 s82(4).

Liability protection of Balancing Pool

92(1) In this section,

(a) "balancing pool person" means

(i) the Balancing Pool,

(ii) each member of the Balancing Pool,

(iii) each officer and employee of the Balancing Pool,

(iv) each agent or contractor of the Balancing Pool, and

(v) each affiliate of a person referred to in subclause (iv);

(b) "balancing pool person act" means any act or omission carried out or purportedly carried out by a balancing pool person in exercising its powers and carrying out its duties, responsibilities and functions under this Act and the regulations or the *Utility Payment Deferral Program Act* and the regulations under that Act;

(c) "direct loss or damage" does not include loss of profits, loss of revenue, loss of production, loss of earnings, loss of contract or any other indirect, special or consequential loss or damage whatsoever arising out of or in any way connected with a balancing pool act.

(2) No action lies against a balancing pool person, and a balancing pool person is not liable, for a balancing pool person act.

(3) Subsection (2) does not apply

(a) where a balancing pool person act is carried out by a balancing pool person that is not an individual, if the act constitutes wilful misconduct, negligence or breach of contract, or

(b) where a balancing pool person act is carried out by a balancing pool person who is an individual, if the act is not carried out in good faith.

(4) Where, as a result of the operation of subsection (3), a balancing pool person is liable to another person for a balancing pool person act, the balancing pool person is liable only for direct loss or damage suffered or incurred by that other person.

(5) In addition to any other indemnity the Balancing Pool may provide, where

(a) a legal action has been commenced against a balancing pool person for a balancing pool person act, and

(b) the balancing pool person is, as a result of the operation of subsection (2) or otherwise, not liable,

the Balancing Pool must indemnify that balancing pool person for, and pay to that balancing pool person, all of that balancing pool person's costs of defending the legal action, including all reasonable legal expenses and legal fees as between solicitor and client, and the amounts so paid to or on behalf of that balancing pool person are recoverable by the Balancing Pool in accordance with subsection (6).

(6) The amounts paid to or on behalf of a balancing pool person under subsection (5) may be recovered by the Balancing Pool from the Independent System Operator through a budget or amended budget established under section 82.

2003 cE-5.1 s92;2009 c53 s54;2020 cU-4 s31

93 Repealed 2018 c10 s2(30).

Regulations

94 The Lieutenant Governor in Council may make regulations

(a) protecting any person named in the regulations from the legal liability specified in the regulations in the circumstances and in the manner described in the regulations;

(b) prohibiting, limiting or restricting any cause of action for the purposes of clause (a);

(c) requiring a person named or described in the regulations to indemnify any other person named or described in the

regulations to the extent and in the circumstances described in the regulations;

(d) providing immunity from a legal action described in the regulations for persons named or described in the regulations in respect of acts or omissions described in the regulations;

(e) limiting or restricting the nature of damages or loss that a person named or described in the regulations may recover in action from any other person named or described in the regulations;

(f) requiring the Commission to take into consideration, when considering a tariff, or to impose as part of the terms and conditions of a tariff, any of the matters described or referred to in clauses (a) to (e).

2003 cE-5.1 s94;2007 cA-37.2 s82(4)

Part 6
Generation

Permissible municipal interests in generating units

95(1) No municipality and no subsidiary of a municipality may hold, directly or indirectly, an interest in a generating unit or energy storage resource except in accordance with any or all of the provisions of this section and the regulations.

(1.1) A municipality or a subsidiary of a municipality that is the owner of an electric distribution system or transmission facility may hold an interest in an energy storage resource that is included in that electric distribution system or transmission facility.

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

(3) If

(a) a municipality had an interest in a generating unit or energy storage resource on May 1, 1995, and

(b) a subsidiary of the municipality acquires the interestafter May 1, 1995,

the municipality and the subsidiary are considered to be in compliance with subsection (2) if the generating capacity of the generating unit or storage capacity of the energy storage resource

does not increase significantly beyond its capacity on May 1, 1995.

(4) The City of Medicine Hat or a subsidiary of the City may hold an interest in a generating unit or energy storage resource if the generating capacity of that unit or storage capacity of the energy storage resource and all other generating units and energy storage resources in which the City or a subsidiary

of the City has an interest does not exceed the capacity that is needed to reliably meet the requirements of customers in the service area of the City.

(5) The Commission must determine whether

(a) a proposal by the City of Medicine Hat or a subsidiary of the City to hold an interest in a generating unit or energy storage resource, or

(b) an interest in a generating unit or energy storage resource that is held by the City of Medicine Hat or a subsidiary of the City

is in accordance with subsection (4).

(6) Before making a determination under subsection (5), the Commission must obtain an independent assessment about whether the proposal to hold an interest in a generating unit or energy storage resource or whether the interest in a generating unit or energy storage resource is in accordance with subsection (4).

(7) The City of Medicine Hat or a subsidiary of the City cannot acquire an interest in a generating unit or energy storage resource under subsection (4) during any period that the City or a subsidiary of the City does not provide the information or statements required by a regulation made under section 142(1)(h).

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

(9) A municipality or a subsidiary of a municipality may hold an interest in a generating unit or energy storage resource located within the boundaries of the municipality on property of which the municipality or subsidiary is the owner or tenant if a majority of the electric energy produced annually by the unit or discharged by the energy storage resource is used by the municipality or subsidiary on that property.

(10) A municipality or a subsidiary of a municipality may, with the authorization of the Minister, hold an interest in a generating unit or energy storage resource if the arrangement under which the interest is held is structured in a manner that prevents any tax advantage, subsidy or financing advantage or any other direct or

indirect benefit as a result of association with the municipality or subsidiary.

(11) The Minister must establish procedures to obtain an independent assessment about whether a proposal by a municipality or a subsidiary of a municipality to hold an interest in

a generating unit or energy storage resource under subsection (10) is in accordance with that subsection.

(12) If the independent assessment concludes that a proposal by a municipality or a subsidiary of a municipality to hold an interest in a generating unit or energy storage resource under subsection (10) is in accordance with that subsection, the Minister must give an authorization.

(13) The Minister may establish procedures to facilitate the resolution of any dispute under this section, except those dealtwith by the Commission under subsections (4) to (6), about whether an interest or a proposed interest of a municipality or a subsidiary of a municipality in a generating unit or energy storage resource is in accordance with this section.

2003 cE-5.1 s95;2007 cA-37.2 s82(4)

Continuation of power purchase arrangements

96(1) A power purchase arrangement continues to have effect in accordance with its terms and conditions, subject to this Act and the regulations.

(2) A power purchase arrangement held by the balancing pool administrator immediately before the coming into force of this section continues to be held by the Balancing Pool in the capacity of a buyer for all purposes of this Act, the regulations and the power purchase arrangement.

(3) A power purchase arrangement, other than a power purchase arrangement held by the Balancing Pool, that is terminated other than under section 15.2 of the power purchase arrangement

(a) is deemed to have been sold to the Balancing Pool, and

(b) is to be held by the Balancing Pool in the capacity of a buyer for all purposes of this Act, the regulations and the power purchase arrangement.

Termination of power purchase arrangement by the Balancing Pool

97 The Balancing Pool may, notwithstanding the terms and conditions of a power purchase arrangement held by the Balancing Pool under section 96(2) and (3), terminate the power purchase arrangement if the Balancing Pool

(a) consults with representatives of customers and the Minister about the reasonableness of the termination,

(b) gives to the owner of the generating unit to which the power

purchase arrangement applies 6 months' notice, or any

shorter period agreed to by the owner, of its intention to terminate, and

(c) pays the owner or ensures that the owner receives an amount equal to the remaining closing net book value of the generating unit, determined in accordance with the power purchase arrangement, as if the generating unit had been destroyed, less any insurance proceeds.

Power purchase arrangement ceases to apply

98 A power purchase arrangement ceases to apply to a generating unit

(a) on the expiration of the power purchase arrangement in accordance with the unit effective term completion date specified in the power purchase arrangement,

(b) on the termination of the power purchase arrangement under section 15.2 of the power purchase arrangement, or

(c) on the termination of the power purchase arrangement by the Balancing Pool.

Regulations

99 The Minister may make regulations

(a) respecting the payment of an amount into the Balancing Pool by the owner of a generating unit that is

(i) constructed at a power plant, and

(ii) designed to use the facilities identified as associated facilities in Schedule A of a power purchase arrangement;

(b) respecting flare gas generating units, including specifying which provisions of this Act and the regulations do not apply to flare gas generating units and the information the owners or operators of a flare gas generating unit must provide to the Independent System Operator;

(b.1) respecting micro-generation generating units, including, without limitation, regulations

(i) defining “micro-generation generating unit”,

(ii) respecting the development, connection and operation of micro-generation generating units, and

(iii) specifying which provisions of this Act and the regulations do not apply to micro-generation generating units;

(b.11) respecting small scale generating units, including community generation generating units, including, without limitation, regulations

(i) defining "small scale generating unit" and "community generation generating unit",

(ii) respecting the development, connection and operation of small scale generating units,

(iii) respecting the environmental, social or economic benefits to be conferred by small scale generating units that are community generation generating units, and

(iv) specifying which provisions of this Act and the regulations do not apply to small scale generating units;

(b.2) setting out circumstances, in addition to those set out in section 95, in which a municipality may hold an interest in a generating unit;

(b.3) respecting any matter relating to a municipality holding an interest in a generating unit, including providing for approvals or other requirements necessary for a municipality to hold such an interest;

(c) respecting the eligibility of a person to hold a power purchase arrangement or a contract, agreement or arrangement derived from a power purchase arrangement and prohibiting a person from holding a power purchase arrangement or an agreement or arrangement derived from a power purchase arrangement;

(d) respecting the holding and sale of a power purchase arrangement or agreements or arrangements derived from a power purchase arrangement by the Balancing Pool;

(e) respecting the deletion, suspension, addition or replacement of one or more provisions of a power purchase arrangement when a power purchase arrangement is held by the Balancing Pool;

(f) respecting the duty of an owner of a generating unit to which a power purchase arrangement applies to provide information, including confidential information, to the Balancing Pool for the purpose of the sale of that power

purchase arrangement or an agreement or arrangement derived from that power purchase arrangement by the Balancing Pool;

(g) respecting the approval of the Commission of decommissioning costs and the amounts to be collected from customers, or through a power purchase arrangement by the owner of a generating unit to which a power purchase arrangement applies, for the purpose of decommissioning the generating unit, including payment to be made to or to be received from the Balancing Pool;

(h) respecting the determination and treatment of isolated generating units, including the preparation of tariffs related to those units and who is to make or receive payments relating to those units;

(i) respecting the requirement for customer choice in areas not served by the interconnected electric system, including payments to be made to the Independent System Operator by retailers and owners of electric distribution systems in respect of those areas and customers;

(j) respecting the payments into or out of the Balancing Pool related to the *Small Power Research and Development Act*;

(k) respecting the amendment of Alberta Regulation AR 175/2000 in order to continue a power purchase arrangement that applies to more than one generating unit as power purchase arrangements that will apply to one or more of those generating units.

2003 cE-5.1 s99;2007 cA-37.2 s82(4);2018 c10 s2(31)

Part 7
Distribution

Medicine Hat

100 Nothing in this Part applies

(a) to the electric distribution system owned by the City of Medicine Hat or a subsidiary of the City in the service area of the City, or

(b) to customers whose property is located in the service area of the City of Medicine Hat,

unless the City of Medicine Hat or a subsidiary of the City

(c) has an affiliated retailer that provides retail electricity services outside the service area of the City, or

(d) provides electric distribution service outside the service area of the City.

2003 cE-5.1 s100;2007 cA-37.2 s82(4)

Owner's right to provide electric distribution service

101(1) A person wishing to obtain electricity for use on property must make arrangements for the purchase of electric distribution service from the owner of the electric distribution system in whose service area the property is located.

(2) If the person has an interval meter and receives electricity directly from the transmission system, the person may, with the prior approval of

(a) the owner of the electric distribution system in whose service area the person's property is located, if any, and

(b) the Independent System Operator,

enter into an arrangement directly with the Independent System Operator for the provision of system access service.

(3) No person other than the owner of an electric distribution system may provide electric distribution service on the electric distribution system of that owner.

2003 cE-5.1 s101;2007 cA-37.2 s82(4)

Distribution tariff

102(1) Each owner of an electric distribution system must prepare a distribution tariff for the purpose of recovering the prudent costs of providing electric distribution service by means of the owner's electric distribution system.

(2) The owner of the electric distribution system must apply for approval of its distribution tariff

(a) to the Commission,

(b) to the council of a municipality, if the owner is a municipality or a subsidiary of a municipality

(i) that does not have an affiliated retailer that provides retail electricity services outside the service area of the municipality, and

(ii) that does not provide electric distribution service outside the service area of the municipality either on its own behalf or on behalf of another owner,

or

(c) to the board of directors of the association, if the owner is a rural electrification association.

(3) A distribution tariff of an owner of an electric distribution system that is a municipality or a subsidiary of a municipality

(a) that has an affiliated retailer that provides retail electricity services outside the service area of the municipality, or

(b) that provides electric distribution service outside the service area of the municipality, either on its own behalf or on behalf of another owner,

takes effect as of January 1, 2004.

(4) A distribution tariff must be prepared in accordance with the regulations made by the Minister under section 108.

2003 cE-5.1 s102;2007 cA-37.2 s82(4)

Regulated rate tariff

103(1) Each owner of an electric distribution system must prepare a regulated rate tariff for the purpose of recovering the prudent costs of providing electricity services to eligible customers.

(2) The owner must apply for approval of its regulated rate tariff to the Commission unless subsection (3) or (4) applies.

(3) If the owner is a municipality or a subsidiary of a municipality that does not have an affiliated retailer that provides retail electricity services outside the service area of the municipality, the owner may apply to the council of the municipality for approval of the regulated rate tariff.

(4) If the owner is a rural electrification association that does not have an affiliated retailer that provides retail electricity services to customers who are not members of a rural electrification association, the owner may apply to the board of directors of the association for approval of the regulated rate tariff.

(5) Despite subsections (3) and (4), the owner must apply to the Commission if required to do so by the regulations made by the Lieutenant Governor in Council under section 142(1)(j).

(6) Repealed 2007 cA-37.2 s82(4).

(7) The charge for electric energy set out in the regulated rate tariff must be determined in accordance with the regulations made by the Minister under section 108.

(8) The owner may recover in its regulated rate tariff its prudent billing costs of

(a) distribution tariff billing for the regulated rate, and

(b) billing to eligible customers for the regulated rate tariff, including taxes and municipal charges.

(9) If an eligible customer who is in the service area of the owner's electric distribution system is not enrolled with a retailer, the owner is the customer's regulated rate provider and the customer is deemed to have elected to purchase electricity services under that owner's regulated rate tariff.

2003 cE-5.1 s103;2007 cA-37.2 s82(4)

Ongoing obligation of owner of electric distribution systems

104(1) An owner of an electric distribution system may make arrangements under which other persons perform any or all of the duties or functions of the owner under this Act and the regulations.

(2) No arrangement under subsection (1) affects or reduces the responsibility or liability of the owner to carry out those duties or functions.

Duties of owners of electric distribution systems

105(1) The owner of an electric distribution system has the following duties:

(a) to provide electric distribution service that is not unduly discriminatory;

~~(a)~~ (a.1) to prepare electric distribution system plans in accordance with any regulations made by the Minister under section 108;

(b) to make decisions about building, upgrading and improving the electric distribution system for the purpose of providing safe, reliable and economic delivery of electric energy having regard to managing losses of electric energy to customers in the service area served by the electric distribution system and any non-wires services;

(c) to operate and maintain the electric distribution system in a safe and reliable manner;

(d) if a transmission facility serves only one service area, to arrange for the provision of system access service to customers in that service area, other than customers referred to in section 101(2);

(e) to install and remove meters and perform metering, including verifying meter readings and verifying accuracy

of meters that are directly connected to the owner's distribution system;

(f) to maintain information systems relating to the consumption of electricity by customers;

(g) to provide to a retailer or the owner's regulated rate provider sufficient, accurate and timely information about the retailer's or the regulated rate provider's customers, including metering information about the electricity consumed by those customers in order to enable the retailer or regulated rate provider to bill and to respond to inquiries and complaints from customers concerning billing for electricity services;

(h) to undertake financial settlement with the Independent System Operator for system access service;

(i) to act as a regulated rate provider to eligible customers who pay a regulated rate for electricity;

(j) to appoint or act as a default supplier, in accordance with the regulations, for eligible customers;

(k) to connect and disconnect customers and distributed generation in accordance with the owner's approved tariff and with principles established by the Commission regarding distributed generation;

(l) to carry out distribution tariff billing for electric distribution service under a distribution tariff;

(m) to respond to inquiries and complaints from customers respecting electric distribution service;

(n) if the owner is a municipality or a subsidiary of a municipality referred to in section 102(2)(b) or a rural electrification association referred to in section 102(2)(c), to comply with rules respecting service standards made by the Commission under section 129(1)(f) and (h).

(1.1) An owner of an electric distribution system that owns an energy storage resource that is a component of an energy storage facility approved by the Commission in accordance with section 25.1 of the *Hydro and Electric Energy Act* may not offer electric energy from that energy storage resource to the power pool.

(2) Each owner of an electric distribution system must, in accordance with the regulations made by the Minister under section

108, maintain the records and provide the records to the persons specified in the regulations.

2003 cE-5.1 s105;2007 cA-37.2 s82(4);2011 c11 s3; 2018 c10 s2(32)

Limitation on functions performed by electric distribution system owners

106 An owner of an electric distribution system shall not carry out any function required or permitted by this Act or the regulations to be carried out by a retailer except

(a) when a retailer has made arrangements under section 112 or 113,

(b) in respect of electricity services provided under a regulated rate tariff when the owner acts as a regulated rate provider, or

(c) if the owner is authorized under the regulations made by the Minister under section 108 to carry out that function.

107 Repealed 2007 cA-37.2 s82(4).

Regulations

108 The Minister may make regulations

(a) respecting the planning and expansion of electric distribution systems;

(a.1) respecting electric distribution system plans under section 105(1)(a.1), including, without limitation, regulations respecting

(i) the objectives and purpose of electric distribution system plans,

(ii) the information that must be included in electric distribution system plans, and

(iii) the timing, frequency and sharing of electric distribution system plans;

(b) adding to, clarifying, limiting or restricting any of the duties or functions of the owner of an electric distribution system and the manner in which the duties or functions are to be carried out;

(c) respecting the responsibilities of an owner of an electric distribution system

(i) to maintain records, the matters in respect of which a record must be maintained and the persons to whom the information must or may be provided;

(ii) to develop and offer non-discriminatory distribution tariffs;

(iii) to carry out billing;

(iv) to perform metering and to maintain information systems, including frequency of meter reading cycles, use of automated meter reading software and equipment, and access to meter data for retailers, the owner's regulated rate provider or customers;

(d) enabling persons other than owners of electric distribution systems to maintain information systems;

(e) respecting the matters that must be included in agreements or arrangements between owners of electric distribution systems and retailers, or the terms and conditions that must be included, or both, including:

(i) the performance security the owners may require retailers to provide;

(ii) the exchange of information required between owners and retailers;

(iii) matters related to billing and the maintenance of information systems;

(f) respecting the terms and conditions that must be included or form part of any agreement or arrangement between

(i) owners of electric distribution systems and customers, and

(ii) owners and retailers or regulated rate providers;

(g) establishing a code of conduct governing the relationship between

(i) an owner of an electric distribution system and its regulated rate provider,

(ii) an owner and its affiliated retailers, or

(iii) the owner's regulated rate provider and an affiliated retailer,

or any aspect of the activities of the parties in the relationship;

(h) respecting the agreements or arrangements between owners of electric distribution systems and eligible customers who pay a regulated rate;

(i) respecting regulated rate tariffs;

(j) exempting a regulated rate provider from ISO rules that require providing financial security in respect of electric energy acquired by the regulated rate provider to meet its obligations under the regulated rate tariff;

(k) replacing a regulated rate tariff with a default supply option;

(l) respecting the circumstances under which a person becomes a default supplier, the manner in which that occurs and the rights and obligations of default suppliers;

(m) respecting the rights and obligations of customers;

(n) respecting the accuracy of billing by regulated rate providers;

(o) defining "eligible customers", "rate classification customers", "affiliated electricity retailer", "affiliated gas retailer" and "default supplier".

2003 cE-5.1 s108;2007 cA-37.2 s82(4)

Part 8
Retail

Medicine Hat

109 Nothing in this Part applies

(a) to the electric distribution system owned by the City of Medicine Hat or a subsidiary of the City in the service area of the City, or

(b) to customers whose property is located in the service area of the City of Medicine Hat

unless the City or a subsidiary of the City

(c) has an affiliated retailer that provides retail electricity services outside the service area of the City, or

(d) provides electric distribution service outside the service area of the City.

2003 cE-5.1 s109;2007 cA-37.2 s82(4)

Customer's right to purchase from retailer

110 Subject to this Act and the regulations, a customer has the right to obtain retail electricity services from a retailer.

Functions of retailers

111(1) Retailers must

(a) maintain records and accounts of their customers respecting the provision of retail electricity services;

(b) make a reasonable effort to collect amounts owing for retail electricity services before discontinuing retail electricity services to a customer;

(c) arrange for the exchange or purchase of electric energy on behalf of their customers;

(d) arrange for electric distribution service on behalf of their customers, including entering into agreements or arrangements with owners of electric distribution systems;

(e) respond to inquiries and complaints from their customers about retail electricity services;

(f) comply with rules respecting service standards made by the Commission under section 129 that apply to retailers.

(2) Retailers may

(a) provide retail electricity services to customers;

(b) exchange electric energy through the power pool on behalf of their customers.

2003 cE-5.1 s111;2007 cA-37.2 s82(4);2018 c10 s2(33)

Billing

112(1) Only a retailer may bill a customer unless

(a) the retailer with the owner's consent authorizes the owner of an electric distribution system to charge customers directly under the owner's distribution tariff, or

(b) the regulations made by the Minister under section 115 provide otherwise.

(2) The authorization shall not restrict the manner in which the owner charges customers under its distribution tariff.

Authorization of another person

113(1) A retailer may make arrangements under which other persons perform any or all of the functions of the retailer under this Act or the regulations.

(2) No arrangement under subsection (1) affects or reduces the responsibility or liability of the retailer in relation to carrying out those functions.

Self retailer

114 A customer may carry out the functions of a retailer to obtain electricity for the customer's own use.

Regulations

115 The Minister may make regulations

(a) respecting the manner in which functions of retailers are to be carried out, including their rights and obligations and codes and standards governing their conduct;

(b) adding to, clarifying, limiting or restricting any of the functions of a retailer and the manner in which the functions are to be carried out;

(c) enabling persons other than owners of electric distribution systems to maintain information systems and respecting the compilation and dissemination of and access to information in those systems;

(d) respecting the responsibility of retailers to carry out billing or the accuracy of billing by retailers, or both;

(e) establishing a code of conduct governing the behaviour of a retailer providing a regulated rate on behalf of an owner of an electric distribution system;

(f) requiring retailers to be registered, with whom, and the information to be provided on registration and periodically after registration, registration renewal, the performance security to be provided by retailers, conditions on registration, the circumstances under which registration is suspended or cancelled and the effect of the suspension or cancellation of registration;

(g) adding to the definition of electricity services;

(h) respecting information that must be provided by retailers to persons specified in the regulations.

Part 9
Regulation by the Commission

Division 1
General Matters

Application of this Part

116(1) This Part applies

(a) to electric utilities operating in Alberta,

(b) to owners of electric utilities operating in Alberta,

(c) to electric utilities owned by the Crown, and

(d) to the ISO tariff.

(2) In this Part, "tariff application" means an application to the Commission under section 119(1) for approval of the tariff of an owner of an electric utility or the ISO tariff.

2003 cE-5.1 s116;2007 cA-37.2 s82(4)

Exemptions

117(1) The Commission may make rules

(a) exempting any facility or class of facilities from the definition of electric utility, or

(b) exempting from all or any provision of this Act and the regulations the electric energy produced from and consumed by an industrial system, and may impose terms and conditions on the exemption.

(2) If the Commission designates the whole or any part of an electric system as an industrial system under section 4(5) of the *Hydro and Electric Energy Act* and is considering making a rule under subsection (1)(b) in relation to that industrial system, the Commission may impose the condition that the owner of the industrial system be responsible for paying a just and reasonable share of the costs associated with the interconnected electric system.

2003 cE-5.1 s117;2007 cA-37.2 s82(4)

Duty to keep accounts and records

118(1) An owner of an electric utility must, with respect to the electric utility,

(a) maintain records and accounts in a manner that provides a reasonable understanding of the operation of the electric utility, including keeping track separately of the costs and expenses of

(i) transmission facilities, and

(ii) electric distribution systems,

(b) provide, when requested by the Commission, a detailed report of finances and operations relating to the electric

utility in the form, containing the information and verified in the manner the Commission requires, and

(c) subject to any order of the Commission, maintain proper and adequate depreciation, amortization or depletion accounts using any basis or method the Commission directs.

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

(a) forecasts, and

(b) separate information in relation to transmission, distribution, exchange, purchase or sale of electric energy when one or more of those functions is undertaken by the same person.

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

2003 cE-5.1 s118;2007 cA-37.2 s82(4);2018 c10 s2(34); 2019 c11 s2(24)

Division 2
Approval of Tariffs

Preparation of tariffs

119(1) Each owner of an electric utility must prepare a tariff in accordance with this Act and the regulations and apply to the Commission for approval of the tariff.

(2) An owner of an electric utility that makes a tariff application and that also owns isolated generating units or energy storage resources must include the costs and expenses related to the isolated generating units or energy storage resources in the application in accordance with the regulations.

(3) If the owner of an electric utility appoints a person to prepare a tariff on its behalf, that person must prepare the tariff and apply to the Commission for approval of the tariff.

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

2003 cE-5.1 s119;2007 cA-37.2 s82(4);2018 c10 s2(35); 2019 c11 s2(25)

Tariff contents

120(1) A tariff must describe how it may change over the period for which it is intended to have effect.

(2) A tariff may provide

(a) that it is in effect for a fixed period or an indefinite period;

(b) for maximum rates;

(c) for increases or decreases in the rates to correspond to

(i) increases or decreases in fuel costs, taxes or other costs and expenses,

(ii) price indices, rates of inflation or similar measurements, and

(iii) other related costs or expenses approved by the Commission;

(d) for incentives for efficiencies that result in cost savings or other benefits that can be shared in an equitable manner between the owner of the electric utility and customers.

2003 cE-5.1 s120;2007 cA-37.2 s82(4)

Matters the Commission must consider

121(1) On giving notice to interested parties, the Commission must consider each tariff application.

(2) When considering whether to approve a tariff application the Commission must ensure that

(a) the tariff is just and reasonable,

(b) the tariff is not unduly preferential, arbitrarily or unjustly discriminatory or inconsistent with or in contravention of this or any other enactment or any law, and

(c) if the regulations so require, the tariff incorporates the standard of liability imposed by the regulations made by the Lieutenant Governor in Council under section 94, or that the Commission has, in accordance with those regulations, considered and imposed a standard of legal liability that it considers appropriate.

(3) A tariff that provides incentives for efficiency is not unjust or unreasonable simply because it provides those incentives.

(4) The burden of proof to show that a tariff is just and reasonable is on the person seeking approval of the tariff.

2003 cE-5.1 s121;2007 cA-37.2 s82(4)

Costs and expenses recovered under a tariff

122(1) When considering a tariff application, the Commission must have regard for the principle that a tariff approved by it must

provide the owner of an electric utility with a reasonable opportunity to recover

(a) the costs and expenses associated with capital related to the owner's investment in the electric utility, including

(i) depreciation,

(ii) interest paid on money borrowed for the purpose of the investment,

(iii) any return required to be paid to preferred shareholders of the electric utility relating to the investment,

(iv) a fair return on the equity of shareholders of the electric utility as it relates to the investment, and

(v) taxes associated with the investment,

if the costs and expenses are prudent and if, in the Commission's opinion, they provide an appropriate composition of debt and equity for the investment,

(b) other prudent costs and expenses associated with isolated generating units, energy storage resources, transmission, exchange or distribution of electricity or associated with the Independent System Operator if, in the Commission's opinion, they are applicable to the electric utility,

(c) amounts that the owner is required to pay under this Act or the regulations,

(d) the costs and expenses applicable to the electric utility that arise out of obligations incurred before the coming into force of this section and that were approved by the Public Utilities Board, the Alberta Energy and Utilities Board or other utilities' regulatory authorities if, in the Commission's opinion, the costs and expenses continue to be reasonable and prudently incurred,

(e) its prudent costs and expenses of complying with the Commission rules respecting load settlement,

(f) its prudent costs and expenses respecting the management of legal liability,

(g) the costs and expenses associated with financial arrangements to manage financial risk associated with the pool price if the arrangements are, in the Commission's opinion, prudently made, and

(h) any other prudent costs and expenses that the Commission considers appropriate, including a fair allocation of the owner's costs and expenses that relate to any or all of the owner's electric utilities.

(2) When the Independent System Operator is the applicant for tariff approval, the Commission must have regard for the principles that a tariff approved by it must provide the Independent System Operator with a reasonable opportunity to recover

(a) ~~principle that a tariff approved by it must provide the Independent System Operator with a reasonable opportunity to recover~~ all of the items referred to in subsection (1) that are applicable to the Independent System Operator, and ~~.~~

(b) a just and reasonable share of the costs associated with the transmission system from

(i) electricity market participants that are connected to the interconnected electric system and that self-supply, or

(ii) the owners of electric distribution systems that provide electric distribution services to market participants that self-supply.

~~(2)~~ **(2.1)** Subsection (2)(b) does not apply in respect of electricity consumed by customers who are industrial systems.

(3) The Commission shall not decide that the ISO tariff fails to satisfy the requirements of section 121(2)(a) or (b) simply because the tariff provides for the flow through, including by the use of deferral accounts, real time pricing or other mechanisms, of some or all of the Independent System Operator's prudent costs and expenses of carrying out its duties, responsibilities and functions.

2003 cE-5.1 s122;2007 cA-37.2 s82(4)

Retrospective tariff

123 When considering whether to approve a tariff that is to have effect from a date preceding its consideration of the tariff application, the Commission may take into account evidence relating to revenues received and costs and expenses incurred by the applicant in the whole or part of the year in which the application is made.

2003 cE-5.1 s123;2007 cA-37.2 s82(4)

Powers of Commission

124(1) In respect of each tariff application, the Commission may, subject to section 135,

(a) approve a tariff or any part of it with or without changes, or

(b) refuse to approve a tariff or any part of it.

(2) An approval may be for an interim period specified by the Commission.

2003 cE-5.1 s124;2007 cA-37.2 s82(4)

Tariff must be approved

125 The owner of an electric utility and the Independent System Operator shall not put into effect a tariff that has not been approved by the Commission.

2003 cE-5.1 s125;2007 cA-37.2 s82(4)

126 Repealed 2007 cA-37.2 s82(4).

Obligations of owners of electric utilities and the Independent System Operator

127 The owners of an electric utility and, in respect of the ISO tariff, the Independent System Operator

(a) must provide and maintain service that is safe, adequate and proper,

(b) shall not withhold a service that the Commission has ordered it to provide, and

(c) shall not act in a manner that is unjust, unreasonable, unduly preferential, arbitrarily or unjustly discriminatory or inconsistent with or in contravention of this or any other enactment or any law.

2003 cE-5.1 s127;2007 cA-37.2 s82(4)

128 Repealed 2007 cA-37.2 s82(4).

Service quality standards

129(1) The Commission may make rules respecting service standards for owners of electric utilities, regulated rate providers and retailers, including rules respecting the following:

(a) the standard of service to be maintained and how the standard is to be measured;

(b) service outages;

(c) upgrades required to maintain and improve electric distribution systems;

(d) the regular or periodic maintenance of electric utilities and repairs;

(e) customer care and call centre services to be provided for customers;

(f) the billing and billing services to be provided to customers;

(g) any matter related to public safety;

(h) the process, procedures and standards for transfer of data relating to distribution tariffs;

(i) the payment to the Commission of professional and other costs relating to the development, implementation and

administration of the rules and by whom the costs are to be paid;

(j) roles, responsibilities and standards of accuracy with respect to metering and metering services.

(2) On application or on its own initiative, the Commission may investigate to determine whether the owner of an electric utility, regulated rate provider or retailer is complying with the rules respecting service standards.

(3) If the Commission is of the opinion that the owner of an electric utility, regulated rate provider or retailer has failed or is failing to comply with the rules respecting service quality standards, the Commission may by order do all or any of the following:

(a) direct the owner, regulated rate provider or retailer to take any action to improve services that the Commission considers just and reasonable;

(b) direct the owner, regulated rate provider or retailer to provide the customer with a credit, of an amount specified by the Commission, to compensate the customer for the owner's, provider's or retailer's failure to comply with the rules respecting service quality standards;

(c) prohibit the owner, regulated rate provider or retailer from engaging in any activity or conduct that the Commission considers to be detrimental to customer service;

(d) impose an administrative penalty under section 63 of the *Alberta Utilities Commission Act*;

(e) impose a specified penalty under section 63.1 of the *Alberta Utilities Commission Act*.

(4) Subsections (2) and (3) apply in respect of an owner of an electric distribution system that is required, by section 105(1)(n), to comply with rules made under subsection (1)(f) and (h).

(5) Subsection (1)(a) to (e), (g), (i) and (j) do not apply to a regulated rate provider that is a municipality or subsidiary of a municipality referred to in section 103(3) or to a regulated rate provider that is a rural electrification association referred to in section 103(4).

2003 cE-5.1 s129;2007 cA-37.2 s82(4);2011 c11 s3;2018 c10 s2(36)

130 and **131** Repealed 2007 cA-37.2 s82(4).

Division 3
Negotiated Settlement of an Issue

Facilitated negotiation

132(1) The Commission must recognize or establish rules, practices and procedures that facilitate

(a) the negotiated settlement of matters arising under this Act or the regulations, and

(b) the resolution of complaints or disputes regarding matters arising under this Act or the regulations.

(2) Before recognizing or establishing rules, practices and procedures that affect the Independent System Operator, the Commission must consult with that corporation.

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

2003 cE-5.1 s132;2007 cA-37.2 s82(4)

Powers of Commission

133 As part of the rules, practices and procedures for negotiated settlement of matters or the resolution of complaints or disputes, the Commission may

(a) provide for the appointment of mediators to assist parties in negotiating the settlement of an issue;

(b) provide for the appointment of employees of the Commission as mediators;

(c) provide for employees of the Commission to attend the settlement process;

(d) recognize or establish rules to ensure that the parties to an issue receive

(i) adequate notice of the settlement process and the matters in issue,

(ii) adequate disclosure of the positions of the parties and the basis for those positions, and

(iii) an appropriate opportunity to participate in the settlement process;

(e) recognize or establish rules governing the extent to which persons who are not parties or classes of persons who are not parties may participate in the settlement of an issue;

(f) provide that, before an issue may become the subject of a hearing before the Commission, the parties must attempt to negotiate a settlement of the issue in accordance with the Commission's rules, practices and procedures;

(g) determine whether any costs of negotiating the settlement of an issue are payable and, if so, by whom and to whom the costs are to be paid.

2003 cE-5.1 s133;2007 cA-37.2 s82(4);2011 c11 s3

Commission approval of a settlement

134(1) If a settlement has been negotiated of an issue that is within the jurisdiction of the Commission, the Commission may approve the settlement.

(2) Any issue dealt with in a settlement approved by the Commission is not subject to further consideration in the hearing of the matter to which the settlement relates.

(3) Subject to subsection (4), the Commission may require a party to provide to it any records relating to the settlement that it considers appropriate.

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

2003 cE-5.1 s134;2007 cA-37.2 s82(4)

Limit on Commission discretion

135 If the parties negotiate a settlement on the basis that the settlement is contingent on the Commission's accepting the entire settlement, the Commission must either approve the entire settlement or refuse it.

2003 cE-5.1 s135;2007 cA-37.2 s82(4);2011 c11 s3

Limit on mediators and facilitators

136 No person acting as a mediator or facilitator of a negotiated settlement or resolution of a complaint or dispute may participate in any proceedings of the Commission arising from or relating to the issue without the express consent of all the parties to the issue.

2003 cE-5.1 s136;2007 cA-37.2 s82(4)

Commission discretion

137(1) When considering a settlement that has been negotiated, the Commission

(a) may accept confidential records from the parties to an issue and, on acceptance, must maintain the confidentiality of the records, and

(b) may participate in or hold any discussions in private if the Commission considers it necessary and if all parties to the issue have notice of the discussions.

(2) The duty of the Commission to maintain the confidentiality of records provided to the Commission under subsection (1)(a) prevails despite the *Freedom of Information and Protection of Privacy Act* for a period of at least 10 years following the end of the year in which the negotiated settlement to which the documents or information relates has completely expired.

2003 cE-5.1 s137;2007 cA-37.2 s82(4)

Division 4
Municipally Owned Electric Utilities

Bylaw bringing utility under this Act

138(1) Any municipality that owns an electric distribution system may, by bylaw, provide that the system is an electric utility under this Act.

(2) The bylaw passed has no effect unless it is approved by the Lieutenant Governor in Council.

(3) If a bylaw has been passed and approved under this section or if the electric distribution system of a municipality is an electric utility under this Act, the municipality may, notwithstanding the bylaw or anything in this Act, impose amounts in respect of its electric distribution system that are in addition to the rates approved by the Commission if the bills submitted to customers

(a) clearly distinguish between the rates approved by the Commission and the additional amounts imposed by the municipality, and

(b) identify the additional amounts imposed by the municipality as a surcharge or tax.

2003 cE-5.1 s138;2007 cA-37.2 s82(4)

Division 5
Rights Granted by a Municipality

Grant of right to distribute electric energy

139(1) A right to distribute electricity granted by a municipality

(a) to an owner of an electric distribution system has no effect unless the grant is approved by the Commission;

(b) to a subsidiary of the municipality does not require Commission approval.

(2) The Commission may approve the grant of a right to distribute electricity when, after hearing the interested parties or with the consent of the interested parties, the Commission determines that the grant is necessary and proper for the public convenience and to properly serve the public interest.

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

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

(a) is approved by the Commission, and

(b) is authorized by regulations under subsection (5).

(5) On the recommendation of the Minister that a grant described in subsection (4) is, in the Minister's opinion, in the public interest, the Lieutenant Governor in Council may make regulations authorizing the grant and respecting any conditions that apply to the grant.

(6) For the purpose of subsection (4), a corporation is controlled by a municipality if the test set out in section 1(2) of the *Municipal Government Act* is met.

2003 cE-5.1 s139;2007 cA-37.2 s82(4)

Limits on approval of grants

140 The Commission shall not approve a grant under section 139 unless

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

(b) the person seeking the grant has satisfied the Commission that the proposed scheme for the distribution of electricity is reasonable and sufficient, having regard to the general circumstances, and

(c) the Commission is satisfied that the grant is to the general benefit of the area directly or indirectly affected by it.

2003 cE-5.1 s140;2007 cA-37.2 s82(4)

Grant to person outside Alberta

141(1) No municipality may grant to a person that is not subject to the legislative authority of Alberta a right to operate, manage or control any plant, works, equipment, systems or services for the transmission, distribution or provision of electricity, either directly or indirectly, in all or part of the municipality.

(2) Subsection (1) does not apply if the grant contains a provision, approved by the Commission, that the person to whom the right is granted 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 that person were an owner of an electric utility.

(3) A right granted by a municipality contrary to this section is void.

2003 cE-5.1 s141;2007 cA-37.2 s82(4)

Part 10

General Matters

Regulations

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

(a) defining any word or expression that is used but not defined in this Act or in regulations made by the Minister;

(b) dealing with any difficulty or impossibility resulting from the coming into force of this Act or the transition to this Act from the *Electric Utilities Act*, RSA 2000 cE-5;

(c) respecting the treatment of the rights and obligations of rural electrification associations under contracts that were in existence on April 30, 1998 and that are made with owners of electric utilities, where the rights and obligations are necessary or advisable to carry out the purposes of this Act;

(d) respecting the authority of the Minister to extend dates or lengthen periods expressly specified in this Act, whether the date or the period specified in the Act has or has not

expired;

(e) respecting costs relating to reclamation of a hydro facility and who is to pay those costs in the event that the Government of Alberta requires that a hydro facility be reclaimed;

(f) authorizing a supervisory authority named in the regulations to impose administrative penalties of not more than $100 000 a day and to impose other sanctions and orders for contravention of or to enforce compliance with regulations made under this Act, and conferring authority on the Court of Queen's Bench to enforce the penalties, orders or other sanctions;

(g) respecting the conversion or transition to this Act of anything from the *Electric Utilities Act*, RSA 2000 cE-5;

(h) requiring the City of Medicine Hat or a subsidiary of the City to provide information or statements of compliance to the chair of the Commission, including certifying or confirming the accuracy of information or compliance statements provided, respecting sections 2(1)(a), 37(2)(a), 95, 100, 109 or other sections of this Act which apply to the City or a subsidiary of the City or which exempt the City or a subsidiary of the City from this Act;

(i) respecting regulatory oversight of the regulated rate tariff for municipalities and rural electrification associations that do not have affiliated retailers;

(j) requiring the owner of an electric distribution system to apply to the Commission for approval of a regulated rate tariff despite section 103(3) and (4);

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

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

(i) respecting the use of the interconnected electric system for the import and export of electricity,

(ii) respecting the implementation of principles and requirements related to the import and export of electricity,

(iii) setting out the principles and criteria that the Commission must or may have regard for when considering approval of

(A) a needs identification document described in section 34,

(B) an expansion or enhancement of the transmission system, or

(C) a tariff of the ISO, an owner of a transmission facility or an owner of an electric distribution system,

(iv) respecting costs and any other matters relating to the planning, development, construction and operation of a safe, reliable and economic interconnected electric system,

(v) respecting directions that the Independent System Operator may give to owners of transmission facilities or other electricity market participants or persons relating to

(A) critical transmission infrastructure and other transmission facilities,

(B) the planning, development, construction and operation of a safe, reliable and economic interconnected electric system, or

(C) ensuring an adequate supply of electricity on a short-term basis or during abnormal conditions,

(v.1) respecting the planning, development, construction and operation of transmission facilities, including

(A) critical transmission infrastructure,

(B) interties, and

(C) transmission facilities to serve areas of renewable energy,

and who is responsible for paying the costs related to the facilities referred to in paragraphs (A), (B) and (C),

(v.2) respecting plans under section 33, including

(A) which plans the Independent System Operator must consult on,

(B) the matters that must be included in plans,

(C) whom the Independent System Operator must consult with, and

(D) the extent or nature of the consultation,

(v.3) respecting the determination of who may apply for the construction or operation, or both, of transmission facilities, including

(A) who may make the determination, and

(B) determining who may apply, based on

(I) a competitive process, or

(II) some other method or process,

(v.4) respecting the principles and criteria that the Commission must have regard to when determining the specific location or detailed route of critical transmission infrastructure or other transmission facilities,

(v.5) respecting

(A) the establishment of a committee comprising the Independent System Operator, representatives of customers, and other persons determined by the regulation to provide records to customers in relation to the construction of transmission facilities, including records relating to the costs, scope and construction schedules of proposed transmission facilities, and

(B) the records of the Independent System Operator, transmission facility owners and persons directed under section 35 or 41.3 that must be provided to the committee for the purpose of paragraph (A),

(v.6) respecting the making of rules by the Commission setting out when a needs identification document is not required,

(v.7) respecting the making of rules and the establishing of practices by the Independent System Operator relating to an abbreviated needs approval process, instead of preparing a needs identification document,

(v.8) providing for a dispute resolution process respecting decisions made by the Independent System Operator resulting from an abbreviated needs approval process,

(v.9) respecting the approval of proposals by the Independent System Operator for the construction and temporary operation of a transmission facility by an electricity market participant and the subsequent transfer to a transmission facility owner, including, but not limited to,

(A) the types of transmission facilities that are eligible for approval under a regulation made under this subclause,

(B) what the Independent System Operator may or must have regard to or not have regard to in approving or refusing to approve the proposal,

(C) requiring the electricity market participant and the transmission facility owner to whom the transmission facility will be transferred to enter into an agreement with respect to the transfer of the transmission facility to the transmission facility owner on the expiry of the temporary period and with respect to the joint operation of the transmission facility by the electricity market participant and the transmission facility owner, or require agreements between them to include other or additional terms,

(D) providing for who is responsible to pay the costs of liabilities incurred by the transmission facility owner as a result of acts or omissions by the electricity market participant during the design or construction of the transmission facility, and

(E) providing for the Commission to consider certain costs related to the transmission facility to be prudent for the purposes of making a decision respecting rates for a transmission facility owner,

(v.91) respecting the transmission facilities or classes of transmission facilities for which the Commission is required to approve costs estimates for the purpose of section 34.1, including the making of rules by the Commission for the purpose of section 34.1,

and

(vi) respecting the combining of an application for an approval under the *Hydro and Electric Energy Act* with an application for approval of a needs identification document described in section 34;

(l.1) respecting reliability standards for or in relation to transmission facilities, electric distribution systems ~~or~~, generating units, energy storage resources or the owners or users of those facilities, systems, ~~or~~ units or resources.

(m) repealed 2007 cA-37.2 s82(4).

(2) The Lieutenant Governor in Council may make regulations

(a) respecting any matter that the Minister considers

(i) is not provided for or is insufficiently provided for in this Act, or

(ii) is necessary or advisable in connection with the implementation of this Act;

(b) exempting any person or class of persons from any provision of this Act or the regulations and prescribing conditions or restrictions on the exemption;

(c) conferring or imposing on any person or class of persons engaged in the supply, generation, transmission, distribution, trade, exchange, purchase or sale of electricity, electric energy, electricity services or ancillary services any power, duty, responsibility or function necessary to carry out the purposes of this Act or the *Utility Payment Deferral Program Act*;

(c.1) repealed 2019 c11 s2(26);

(d) adding to, clarifying, limiting or restricting any power, duty, responsibility or function conferred or imposed on any person or class of persons under this Act or regulating how they are to be exercised, despite any other provision of this Act or the regulations;

(e) allocating, determining, fixing or prescribing anything required by this Act to be allocated, determined, fixed or prescribed, including the manner of allocation, determination, fixing or prescription, if not specified in this Act;

(f) respecting any matters, in addition to or in place of those specified in this Act, to be considered by the Commission in making an order under this Act;

(g) suspending the operation of any provision of this Act or making any provision of this Act inapplicable if, in the Minister's opinion, that is necessary or advisable to carry out the purposes of this Act, the *Utility Payment Deferral Program Act* or the *Renewable Electricity Act*.

(3) A regulation made under subsection (2) is repealed on the earliest of

(a) the coming into force of an amendment to this Act that adds the matter to this Act,

(b) the coming into force of a regulation that repeals the regulation made under subsection (2), and

(c) 5 years after the regulation comes into force.

(4) The repeal of a regulation under subsection (2) does not affect anything done, incurred or acquired under the authority of the regulation.

2003 cE-5.1 s142;2007 cA-37.2 s82(4);2009 c44 s2;2016 cR-16.5 s20; 2018 c10 s2(37);2019 c11 s2(26);2020 cU-4 s31

Ministerial regulations

142.1 The Minister may make regulations respecting the definition of roles and responsibilities and establishment of rules for procedures and equipment, including testing and audit procedures and equipment and service standards, with respect to metering.

2007 cA-37.2 s82(4)

Extent of regulations

143 Any regulation made by the Minister or the Lieutenant Governor in Council under this Act may

(a) be specific or general in its application and include conditions, restrictions and limitations;

(b) apply to all or any part of Alberta;

(c) impose or confer on any person named in the regulations any power, duty, responsibility or function in respect of the regulation;

(d) adopt or declare to be in force any code or standard, with or without modifications, specified or described in the regulation.

144 and **145** Repealed 2007 cA-37.2 s82(4).

Regulations Act – non-application

146 The *Regulations Act* does not apply to

(a) ISO bylaws or the ISO rules;

(b) Balancing Pool bylaws.

Payment in lieu of income tax

147(1) In this section, "municipal entity" means

(a) each municipality that

(i) owns a retailer,

(ii) holds a power purchase arrangement, or

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

(b) each retailer that is a subsidiary of a municipality;

(c) each holder of a power purchase arrangement that is a subsidiary of a municipality;

(d) each holder of an agreement or arrangement derived from a power purchase arrangement that includes the right to exchange electric energy and ancillary services that is a subsidiary of a municipality.

(2) If the regulations under subsection (8) so provide, "municipal entity" also includes:

(a) each municipality or subsidiary of a municipality that owns an electric distribution system;

(b) each municipality or subsidiary of a municipality that provides a regulated rate tariff;

(c) each municipality or subsidiary of a municipality that owns a transmission facility.

(3) If a municipal entity is exempt as a result of subsection 149(1) of the *Income Tax Act* (Canada) from the payment of tax under that Act or the *Alberta Corporate Tax Act*, it must, in accordance with the regulations, pay to the Balancing Pool in respect of each taxation year an amount equal to the amount of tax that it would be liable to pay under

(a) the *Income Tax Act* (Canada), and

(b) the *Alberta Corporate Tax Act*,

if it were not exempt.

(4) Revenue received by a municipal entity

(a) from an electric distribution system owned by it,

(b) from a customer who chooses to purchase electricity under a regulated rate tariff, or

(c) from a transmission facility owned by it,

shall not be considered income received by a municipal entity for the purposes of subsection (3) unless required by the regulations made under subsection (8).

(5) Subsection (3) does not apply to the City of Medicine Hat or to a subsidiary of the City.

(6) The City of Medicine Hat and each subsidiary of the City must pay to the Balancing Pool an amount calculated in accordance with the regulations made under subsection (8).

(7) If the City of Medicine Hat or a subsidiary of the City is subject to payment of tax under the *Income Tax Act* (Canada) or the *Alberta Corporate Tax Act*, subsection (6) does not apply to the City or its subsidiary.

(8) The Lieutenant Governor in Council may make regulations for the purposes of this section, including regulations

(a) respecting the calculation of the amount to be paid to the Balancing Pool under subsection (3);

(b) respecting the interval for payment of the amount to be paid to the Balancing Pool;

(c) making this section applicable to any of the municipal entities described in subsection (2) and the revenue described in subsection (4);

(d) respecting the calculation of amounts to be paid to the Balancing Pool by the City of Medicine Hat or a subsidiary of the City;

(e) making any provisions of the *Income Tax Act* (Canada) and the *Alberta Corporate Tax Act* and regulations under either or both enactments, with or without modifications, applicable to the person named in the regulations.

(9) A regulation made under subsection (8) may provide for the retroactive application of the regulation, but not to a date earlier than January 1 of the year in which the regulation is made.

2003 cE-5.1 s147;2018 c10 s2(38);2019 c11 s2(27)

Approved professional costs

148(1) The Minister may approve the professional and other costs relating to the development and implementation of this Act, amendments to this Act and regulations under this Act, including costs relating to advancing the purposes of this Act and regulations.

(2) Costs approved by the Minister under subsection (1) must be paid by the Balancing Pool.

Advisory committee

149(1) The Minister may establish a committee under section 7 of the *Government Organization Act*.

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

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

149.1 Repealed 2018 c10 s2(39).

Offences

150(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 section 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 section 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.

2003 cE-5.1 s150;2007 cA-37.2 s82(4)

Part 11

Transitional Provisions, Consequential Amendments and Coming into Force

Division 1 Transitional Provisions

151 to **154** Repealed 2018 c10 s2(39).

Continuation of approvals, orders, etc.

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

(a) an electric utility,

(b) the owner of an electric utility, or

(c) the Transmission Administrator

made under the *Public Utilities Board Act*, the *Hydro and Electric Energy Act*, the *Electric Utilities Act*, SA 1995 cE-5.5, or the *Electric Utilities Act*, RSA 2000 cE-5, before the coming into force of this section does not cease to have effect as a result of the coming into force of this Act.

156 to **163** Repealed 2018 c10 s2(39).

Division 2
Consequential Amendments and Coming into Force

164 to **166** *(These sections amend other Acts; the amendments have been incorporated into those Acts.)*

167 Repealed 2018 c10 s2(39).

Repeals

168(1) The *Electric Utilities Act*, RSA 2000 cE-5, is repealed.

(2) Repealed 2018 c10 s2(39).

2003 cE-5.1 s168;2018 c10 s2(39)

Coming into force

169 This Act comes into force on Proclamation.

(NOTE: Proclaimed in force June 1, 2003.)

Schedule

Critical Transmission Infrastructure

Each of the critical transmission infrastructure described in this Schedule includes all associated facilities required to interconnect a transmission facility described in this Schedule to the interconnected electric system.

The following transmission facilities are designated as critical transmission infrastructure:

1(1) Two high voltage direct current transmission facilities between the Edmonton and Calgary regions, with a minimum capacity of 2000 megawatts each, generally described as follows:

(a) one facility with a northern terminal in the vicinity of the existing Keephills - Genesee generating units and the southern terminal at or in the vicinity of the existing Langdon 102S substation, and

(b) one facility, located east of the facility described in clause (a) and geographically separated from that facility for the purposes of ensuring reliability of the transmission system, with a northern terminal at or in the vicinity of a new substation to be built in the Gibbons - Redwater region and a southern terminal

(i) at or in the vicinity of the existing West Brooks 28S substation, or

(ii) at or in the vicinity of a new substation to be located in the Raymond - Bow Island region.

(2) The terminals referred to in subsection (1)(a) and (b) shall have an initial capacity of at least 1000 megawatts each and be expandable to a minimum capacity of 2000 megawatts each in accordance with section 41.4(1) of this Act.

2 One double circuit 500 kV alternating current transmission facility connecting to the 500 kV transmission system on the south side of the City of Edmonton and to a new substation to be built in the Gibbons - Redwater region.

3 A new 240 kV substation to be built in the southeast area of the City of Calgary.

4 Two single circuit 500 kV alternating current transmission facilities from the Edmonton region to the Fort McMurray region, generally described as follows:

(a) a facility from a new substation to be built in the Thickwood Hills area, approximately 25 km west of the Fort McMurray Urban Service Area, to a substation at or in the vicinity of the existing Brintnell 876S substation;

(b) a facility at or in the vicinity of the existing Brintnell 876S substation, to a substation in the vicinity of the existing Keephills - Genesee generating units;

(c) a facility, located east of the facilities described in clauses (a) and (b) and geographically separated from those facilities for the purposes of ensuring reliability of the transmission system, from a new substation to be built in the Gibbons - Redwater region to a new substation to be built in

the Thickwood Hills area, approximately 25 km west of the Fort McMurray Urban Service Area.

2009 c44 s2

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