Province of Alberta

GAS UTILITIES ACT

Revised Statutes of Alberta 2000
Chapter G-5

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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 *Gas Utilities Act* that are filed as Alberta Regulations under the Regulations Act

	Alta. Reg.	*Amendments*
Gas Utilities Act		
Code of Conduct	58/2015	
Default Gas Supply	184/2003	*254/2007, 224/2012*
Exemption	53/99	*251/2001, 63/2003, 306/2006, 254/2007, 99/2010, 91/2015*
Gas Utilities Designation	257/2007	*185/2009, 149/2015*
Natural Gas Billing	185/2003	*254/2007, 224/2012*
Roles, Relationships and Responsibilities	186/2003	*254/2007, 224/2012*
Uniform System of Accounting for Natural Gas Utilities	546/63	*8/2015*

GAS UTILITIES ACT

Chapter G-5

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

Definitions

1(1) In this Act,

(a) "absorption plant" means any plant for treating or processing gas by absorption or otherwise for the extraction from it of natural gasoline or other hydrocarbons;

(a.1) "affiliate" for the purposes of clause (g.1) has the meaning given to it in the *Business Corporations Act*;

(b) repealed 2007 cA-37.2 s82(12);

(c) "butanes" means butanes as defined in the *Oil and Gas Conservation Act*;

(d) "charter" means any special or general Act of Alberta or Ordinance of the North-West Territories by or by virtue of which a corporation is incorporated, and the certificate of incorporation or other document issued by virtue of that Act or Ordinance, or granting powers to a corporation;

(d.1) "Commission" means the Alberta Utilities Commission under the *Alberta Utilities Commission Act*;

(e) "gas" means all natural gas both before and after it has been subjected to any treatment or process by absorption, purification, scrubbing or otherwise, and includes all fluid hydrocarbons not defined by clause (i) as oil;

(f) "gas pipeline"

(i) means a pipe or any system or arrangement of pipes wholly within Alberta whereby gas is conveyed from a well-head or other place at which it is produced to any other place, or from a place where it is stored, processed or treated to any other place,

(ii) includes all property of any kind used for the purpose of, or in connection with, or incidental to the operation of a gas pipeline in the gathering, transporting, handling and delivery of gas, and

(iii) without restricting the generality of the foregoing, includes tanks, surface reservoirs, pumps, racks, storage and loading facilities, compressors, compressor stations, pressure measuring and controlling equipment and fixtures, flow controlling and measuring equipment and fixtures, metering equipment and fixtures and heating, cooling and dehydrating equipment and fixtures, but

(iv) does not include any pipe or any system or arrangement of pipes that constitutes a distribution system for the distribution of gas to ultimate consumers;

(g) "gas utility" means

(i) any gas pipeline,

(ii) any system, works, plant, pipes, equipment or service for the production, gathering, conveying, transmission, transporting, delivery, furnishing or supplying of gas by retail or wholesale, either directly or indirectly, to or for the public or any member of the public, whether an individual or a corporation, other than the transportation, delivery, furnishing or supplying by retail or wholesale, either directly or indirectly, of liquefied petroleum gas (except propane and butanes) by means of tank car, tank wagon, cylinder or vessel,

(iii) any absorption plant or scrubbing plant, and

(iv) any system, well, works, plant, equipment or service for the production of gas or capable of producing gas that may be declared by the Commission to be a gas utility;

(g.1) "gas utility pipeline" means a gas pipeline of a gas utility designated by regulation or of its affiliates;

(h) "municipality" means a city, town, village or municipal district and includes a Metis settlement;

(i) "oil" means crude bitumen and crude oil and all other hydrocarbons, regardless of gravity, that are recovered in liquid form from a pool by ordinary production methods, but does not include butanes;

(j) "owner of a gas utility" means

(i) a person owning, operating, managing or controlling a gas utility and whose business and operations are subject to the legislative authority of Alberta, and the lessees, trustees, liquidators of it or any receivers of it appointed by any court, but

(ii) does not include a municipality that has not voluntarily come under this Act in the manner provided by section 4;

(k) "propane" means propane as defined in the *Oil and Gas Conservation Act*;

(l) "scrubbing plant" means any plant for the purifying, scrubbing or otherwise treating, of gas for the extraction or removal from it of hydrogen sulphide or any other deleterious substance.

(2) The Lieutenant Governor in Council may by regulation designate a gas utility for the purposes of subsection (1)(g.1).

RSA 2000 cG-5 s1;2007 cA-37.2 s82(12)

Application

Applications include complaints

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

RSA 2000 cG-5 s2;2007 cA-37.2 s82(12)

Declaration re gas utility

3(1) The Commission, on its own initiative or on the application of a person having an interest, may, or on the order of the Lieutenant Governor in Council shall, declare

(a) that any thing that is a gas utility by virtue of section 1(g)(i), (ii) or (iii) is not a gas utility,

(b) that a person is not for the purposes of this Act an owner of a gas utility, or

(c) that a provision of this Act does not apply to

(i) a gas utility,

(ii) an owner of a gas utility, or

(iii) gas or gas services offered or provided by the gas utility.

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

(a) the gas utility,

(b) the owner of the gas utility, or

(c) gas or gas services offered or provided by the gas utility.

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

(4) The Commission,

(a) on its own initiative or on the application of a person having an interest, may, after giving notice and conducting a hearing, or

(b) on the order of the Lieutenant Governor in Council, shall

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

RSA 2000 cG-5 s3;2007 cA-37.2 s82(12)

Application of Act

4(1) This Act applies:

(a) to all gas utilities owned or operated by or under the control of a company or corporation that is subject to the

legislative authority of Alberta or that has, by virtue of an agreement with a municipality, submitted to the jurisdiction and control of the Commission;

(b) subject to subsection (2), to every owner of a gas utility;

(c) to all gas utilities owned or operated by or under the control of the Crown, or an agent of the Crown, in right of Alberta;

(d) to the matters and things set out in Parts 1 and 5 to the extent set out in those Parts.

(2) This Act does not apply to a gas utility owned or operated by a municipality unless the gas utility is brought under this Act by a bylaw of the municipality as provided in subsections (3) and (4).

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

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

RSA 2000 cG-5 s4;2007 cA-37.2 s82(12)

Jurisdiction of Commission

4.1(1) In addition to the jurisdiction of the Commission with respect to gas utility pipelines under this Act, the Commission has jurisdiction with respect to gas utility pipelines and exercises all the powers, functions and duties of the Alberta Energy Regulator set out in the *Pipeline Act* with respect to gas utility pipelines.

(2) The Commission may, in respect of gas utility pipelines, delegate to the Alberta Energy Regulator its powers, duties and functions respecting operational and compliance matters.

2007 cA-37.2 s82(12);2012 cR-17.3 s92

Requirement for Order in Council

Requirement for O.C.

5(1) Notwithstanding anything in this Act but subject to any regulations under subsection (2), the Commission shall not proceed with any application under section 6, 8, 9, 10, 16, 17, 36 or 45 or any provision of them or proceed on its own motion or initiative under any of those sections unless it is authorized to do so by an order of the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council may make regulations exempting from the operation of subsection (1)

(a) all or any classes of applications under any section referred to in that subsection or under any provision of it, or

(b) all or any classes of cases under any section referred to in that subsection or under any provision of it when the Commission is, apart from this section, empowered to proceed on its own motion or initiative.

RSA 2000 cG-5 s5;2007 cA-37.2 s82(12)

Part 1
Gas Prices

Jurisdiction re gas prices

6(1) Notwithstanding the terms of any contract, the Commission on the application of an interested party or a municipality or on its own motion may, and on an order of the Lieutenant Governor in Council shall, fix and determine the just and reasonable price or prices to be paid for any gas used, consumed, stored or retained within Alberta, and without limiting the foregoing powers and jurisdiction of the Commission, the Commission may or shall, as the case may be, fix and determine any or all of the following:

(a) the just and reasonable price or prices to be paid for gas

(i) in its natural state as and when produced from the earth at the gas exit from the separator, where a separator is employed, and in all other cases as and when produced from the well-head either alone or in association or conjunction with other petroleum products or hydrocarbons;

(ii) before it has been delivered into any gas pipeline;

(iii) before it has been subjected to treating or processing by absorption or otherwise for the extraction from it of natural gasoline or other hydrocarbons;

(iv) before it has been purified, scrubbed or otherwise treated for the extraction or removal from it of hydrogen sulphide or any other deleterious substance;

(v) at any point on a gas pipeline;

(b) the just and reasonable price or prices to be paid for gas that has been gathered and delivered to an absorption

plant and after it has been subjected to treating or processing by absorption or otherwise for the extraction from it of natural gasoline or other hydrocarbons;

(c) the just and reasonable price or prices to be paid for gas after it has been purified, scrubbed or otherwise treated for the extraction or removal from it of hydrogen sulphide or any other deleterious substance;

(d) the just and reasonable price or prices to be paid for gas that, by the terms of an order made by the Alberta Energy Regulator, is required to be returned to an underground formation for storage;

(e) the just and reasonable price or prices to be paid to the owner of gas for gas that, by order of the Alberta Energy Regulator, has been retained in the underground formation;

(f) the just and reasonable price or prices to be paid for gas sold and delivered at a field gathering point or at a point in or near a field, to which gas from wells in the field is brought for delivery, whether or not it has, in either case, been processed in an absorption or scrubbing plant and whether or not it is sold under a contract containing specifications as to the heating value of the gas or the proportion of any chemically distinct constituent in the gas;

(g) the just and reasonable price or prices to be paid for any gas sold, on an order or direction of the Alberta Energy Regulator, to any community or consumer in Alberta or to a person delivering gas in or to that community or consumer.

(2) Notwithstanding anything in this Act, the Commission may, for the purpose of fixing and determining the just and reasonable price or prices pursuant to subsection (1), adopt any just and reasonable basis or method of arriving at or computing the price or prices that the Commission considers applicable or proper having regard to all the circumstances and factors involved.

(3) If the Lieutenant Governor in Council, pursuant to subsection (1), orders the Commission to fix and determine the just and reasonable price or prices to be paid for any gas used, consumed, stored or retained within Alberta, the Lieutenant Governor in Council may also direct the Commission

(a) to make its order fixing and determining the price or prices without notice to any interested parties and without holding a hearing, and

(b) to specify in its order the date on which the price or prices are to come into effect.

(4) When the Commission, pursuant to an order of the Lieutenant Governor in Council under subsection (3), makes its order without holding a hearing, the Commission shall, within a reasonable time after the date on which the price or prices come into effect and after giving notice to any interested parties, hold a hearing for the purpose of reviewing its order and, if necessary, amending or replacing it.

RSA 2000 cG-5 s6;2007 cA-37.2 s82(12);2012 cR-17.3 s92

Interim price freeze on propane and butanes

7(1) When the Lieutenant Governor in Council, pursuant to section 6(1), orders the Commission to fix and determine the just and reasonable price or prices to be paid for any propane or butanes to be used, consumed, stored or retained within Alberta, the price or prices for the propane or butanes that are the subject of that order and in effect on the date the order is made shall not be increased during the period between the date of the order of the Lieutenant Governor in Council and the effective date of the Commission's order under section 6(1), unless the Commission by an order approves the increased price or prices.

(2) An order of the Commission under this section shall specify the date on which the increased price or prices are to come into effect.

(3) The Commission may from time to time amend or replace an order made by it under subsection (1).

RSA 2000 cG-5 s7;2007 cA-37.2 s82(12)

Proportioning price

8 Notwithstanding the terms of any contract between the owner or producer of gas and the operator of an absorption plant, the Commission may, by order, fix and determine the proportion of the price received by the operator of the absorption plant to be paid by the operator to the owner or producer of the gas for the gasoline or other hydrocarbon content of the gas, or if the gasoline or other hydrocarbon content is retained by the operator, the equivalent of the proportion of the price.

RSA 2000 cG-5 s8;2007 cA-37.2 s82(12)

Scrubbing plant prices

9(1) The Commission, after notice to and hearing the interested parties, may by order approve any contract made or proposed to be made by the owner or operator of a scrubbing plant for the sale or

disposition of hydrogen sulphide or other components of natural gas extracted in the scrubbing plant.

(2) A contract approved under subsection (1) shall not be changed or varied by the Commission except insofar as the change or variation is mutually agreed on by the parties to the contract and approved by the Commission.

(3) Failing agreement between the owner or operator of the scrubbing plant and the persons to whom an accounting should be made, the Commission may direct the manner in which and to whom, and at what times, the money received by the owner or operator of the scrubbing plant pursuant to the contract approved pursuant to subsection (1) is to be paid or accounted for.

RSA 2000 cG-5 s9;2007 cA-37.2 s82(12)

Determining prices

10(1) When gas produced from any land is, or when gas that may be produced from any land is to be, gathered, treated or processed by the producer of the gas, the Commission may, for the purposes of determining or establishing the value of the gas or any of its components as at the time and place of production from the well or on the location of the well, fix and determine

(a) the just or fair and reasonable costs, charges or deductions, or

(b) the method, formula or basis to be applied, adopted or followed for ascertaining the just or fair and reasonable costs, charges or deductions

to be made or to be deducted by the producer for or incidental to the gathering, treating or processing of the gas or any of its components.

(2) An order made pursuant to subsection (1)

(a) applies and extends to the land or areas designated in it,

(b) applies to and is effective and binding on the producer and all parties to or for whom the producer is or may be liable to pay or account for the gas or any portion of it or interest in it, except only insofar as the order is inconsistent with any express contractual obligation of the producer that fixes or establishes

(i) specific costs, charges or deductions, or

(ii) the specific method, formula or basis for ascertaining the costs, charges or deductions,

that are to be made or deducted by the producer for or incidental to the gathering, treating or processing of the gas, and

(c) may be for a fixed or determined period or periods, or be made subject to future review by the Commission, as provided in the order, and the order shall not be otherwise changed or varied by the Commission except and only insofar as the change or variation is consented to by all of the parties affected by it.

RSA 2000 cG-5 s10;2007 cA-37.2 s82(12)

Powers of Commission

11 For the purpose of carrying out this Part, the Commission, in addition to any other powers conferred by this Act or any other Act, may require and compel the attendance of the owner or operator or any officer, agent, or servant of the owner or operator of any absorption plant, and compel the production of documents related in any manner to the operation of the plant, and, with regard to the attendance of those persons and the production of those documents, the Commission has all the like powers, rights, privileges and immunities that are vested in the Court of Queen's Bench.

RSA 2000 cG-5 s11;2007 cA-37.2 s82(12)

Contracts

12(1) The Commission may, with the approval of the Lieutenant Governor in Council, designate any area of land in Alberta from which gas is produced, and may permit

(a) the operator of an absorption plant, or

(b) a person that

(i) has been given an order under section 38, or

(ii) has been granted approval under section 39,

(iii) repealed 2011 c11 s4,

of the *Oil and Gas Conservation Act*,

to enter into a contract, with any owner or producer of gas produced from the designated area, to fix the price to be paid by the operator or person to the owner or producer for the gas.

(2) The contract may be for a fixed period and has no effect until it is approved by the Commission.

(3) The operator or the person referred to in subsection (1) shall enter into similar contracts with each owner or producer of gas within the designated area, if

(a) the owner or producer is willing to enter into a contract with the operator or the person, and

(b) in the opinion of the Commission, the gas belonging to the owner or producer can be processed economically by the operator or the person referred to in subsection (1).

(4) The Commission may, with the approval of the Lieutenant Governor in Council, withdraw the approval of a contract given pursuant to subsection (2), if the person referred to in subsection (1) fails to prosecute the construction of the plant and facilities with reasonable diligence.

RSA 2000 cG-5 s12;2007 cA-37.2 s82(12);2011 c11 s4

Variation of contracts

13(1) When a contract has been approved by the Commission pursuant to section 12, it shall not be changed or varied by the Commission except insofar as the change or variation is mutually agreed on by the parties to the contract and approved by the Commission.

(2) If a contract is changed or varied pursuant to subsection (1), the operator shall make a similar change or variation in any similar contract entered into with each owner or producer of gas within the designated area if the owner or producer requests that the change or variation be made and if it is approved by the Commission.

RSA 2000 cG-5 s13;2007 cA-37.2 s82(12)

Purchase of gas by absorption plant

14 When the operator of an absorption plant is unable to process all the gas produced in a designated area by the owners or operators with whom the operator is required to enter into contracts by section 12(3), the operator shall purchase the gas from each owner and producer having a contract approved by the Commission on a prorated basis in the proportion that the operator's production bears to the total production in the designated area.

RSA 2000 cG-5 s14;2007 cA-37.2 s82(12)

Variation of contract

15 A contract or other arrangement made between the owner or producer of any gas or the owner or operator of an absorption or gas processing plant and the distributor of gas or electricity, by wholesale or retail, for the sale or supply of gas by the owner, producer or operator to the distributor, if approved by order of the

Commission, shall not be changed or varied by the Commission, either as to prices or otherwise, except

(a) when provision for any such change or variation is reserved in, or made a condition of, the approving order, or

(b) only insofar as the change or variation is mutually agreed on by the parties to the contract or arrangement.

RSA 2000 cG-5 s15;2007 cA-37.2 s82(12)

Part 2
Regulation of Gas Utilities

Investigation re tolls

16 When it is made to appear to the Commission, on the application of any owner of a gas utility or of any municipality or person having an interest, present or contingent, in the matter in respect of which the application is made, that there is reason to believe that the tolls demanded by an owner of a gas utility exceed what is just and reasonable, having regard to the nature and quality of the service rendered or of the gas supplied, the Commission

(a) may proceed to hold any investigation that it thinks fit into all matters relating to the nature and quality of the service or the gas supplied, or to the performance of the service and the tolls or charges demanded for it,

(b) may make any order respecting the improvement of the service or gas and as to the tolls or charges demanded, that seems to it to be just and reasonable, and

(c) may disallow or change, as it thinks reasonable, any tolls or charges that, in its opinion, are excessive, unjust or unreasonable or unjustly discriminate between different persons or different municipalities, but subject however to any contract existing between the owner of the gas utility and a municipality at the time the application is made that the Commission considers fair and reasonable.

RSA 2000 cG-5 s16;2007 cA-37.2 s82(12)

Change of rates

17 When by a contract between an owner of a gas utility and a municipality or person for the supply of gas by means of the gas utility, any rate, toll or charge is agreed on either as a fixed or variable rate, toll or charge, or a maximum or minimum rate, toll or charge, and whether that rate, toll or charge is agreed on with respect to a present or future supply of gas, then, notwithstanding anything in this Act, the *Public Utilities Act* or the *Alberta Utilities*

Commission Act, the Commission may, on the application of the owner, municipality or person and on it being shown on the hearing of the application that the rate, toll or charge is insufficient, excessive, unjust or unreasonable, change the rate, toll or charge to any other greater or lesser rate, toll or charge that it considers fair and reasonable.

RSA 2000 cG-5 s17;2007 cA-37.2 s82(12)

Use of roadway or watercourse

18 When an owner of a gas utility who has the right to enter a municipality for the purpose of placing, with or without the consent of the municipality, pipes or other appliances, on, along, across, over or under any public road, street, square, watercourse or part of it, cannot come to an agreement with the municipality as to the use, for that purpose, of the roadway or the watercourse in question, or as to the terms and conditions of its use, and applies to the Commission for permission to use the roadway or watercourse, or to fix the terms and conditions of its use, the Commission may permit the use of the roadway or watercourse and prescribe the terms and conditions of use.

RSA 2000 cG-5 s18;2007 cA-37.2 s82(12)

Right of way

19 When an owner of a gas utility

(a) is unable to extend the owner's system, line or apparatus from a point where the owner lawfully does business to another point or points where the owner is authorized to do business, without placing pipes or other apparatus on, along, across, over or under some public road, street, square, watercourse or part of it,

(b) cannot lawfully so place pipes or other apparatus without the consent of the municipality having control of the public road, street, square, watercourse or part of it, and

(c) is unable to come to an agreement with the municipality,

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

RSA 2000 cG-5 s19;2007 cA-37.2 s82(12)

Settling differences

20(1) In all differences arising between an owner of a gas utility and a municipality with reference to the performance of the terms and conditions mentioned in sections 18 and 19, the Commission may change the terms and conditions if, in its opinion, the changes are necessary or desirable.

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

RSA 2000 cG-5 s20;2007 cA-37.2 s82(12)

Use of highways, etc.

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

RSA 2000 cG-5 s21;2007 cA-37.2 s82(12)

Supervision

22(1) The Commission shall exercise a general supervision over all gas utilities, and the owners of them, and may make any orders regarding equipment, appliances, extensions of works or systems, reporting and other matters, that are necessary for the convenience of the public or for the proper carrying out of any contract, charter or franchise involving the use of public property or rights.

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

RSA 2000 cG-5 s22;2007 cA-37.2 s82(12)

Receivers, managers, etc.

23(1) The fact that a receiver, manager or other official of a gas utility, or a sequestrator of the property of it, has been appointed by any court in Alberta or is managing or operating a gas utility under

the authority of a court, does not prevent the exercise by the Commission of any jurisdiction conferred by this Act.

(2) Every receiver, manager or official shall manage and operate the gas utility in accordance with this Act and with the orders and directions of the Commission, whether general or referring particularly to the gas utility, and every receiver, manager or official, and every person acting under a receiver, manager or official, shall obey all orders of the Commission within its jurisdiction in respect of the gas utility, and is subject to having them enforced against that person by the Commission, notwithstanding the fact that the receiver, manager, official or person is appointed by or acts under the authority of a court.

RSA 2000 cG-5 s23;2007 cA-37.2 s82(12)

Investigation of gas utility

24(1) The Commission, on its own initiative or on the application of a person having an interest, may investigate any matter concerning a gas utility.

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

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

RSA 2000 cG-5 s24;2007 cA-37.2 s82(12);2012 cR-17.3 s92

Prohibitions

25 No owner of a gas utility shall

(a) make, impose or extract any unjust or unreasonable or unjustly discriminatory or unduly preferential individual or joint rate, commutation rate or other special rate, toll, fare, charge or schedule for any gas or service supplied or rendered by it within Alberta,

(b) adopt or impose any unjust or unreasonable classification in the making of or as the basis of any individual or joint rate, toll, fare, charge or schedule for any gas or service rendered by it within Alberta,

(c) adopt, maintain or enforce any regulation, practice or measurement that is unjust, unreasonable, unduly preferential, arbitrarily or unjustly discriminatory or otherwise in contravention of law, or provide or maintain any service that is unsafe, improper or inadequate, or withhold or refuse any service that can reasonably be demanded and furnished when ordered by the Commission, or

(d) make, or give, directly or indirectly, any undue or unreasonable preference or advantage to any person or to any locality, or subject any particular person or locality to any prejudice or disadvantage in any respect whatever.

RSA 2000 cG-5 s25;2007 cA-37.2 s82(12)

Designated gas utilities

26(1) The Lieutenant Governor in Council may by regulation designate those owners of gas utilities to which this section and section 27 apply.

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

(a) issue any

(i) of its shares or stock, or

(ii) bonds or other evidences of indebtedness, payable in more than one year from the date of them,

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

(b) capitalize

(i) its right to exist as a corporation,

(ii) a right, franchise or privilege in excess of the amount actually paid to the Government or a municipality as the consideration for it, exclusive of any tax or annual charge, or

(iii) a contract for consolidation, amalgamation or merger,

(c) without the approval of the Commission, capitalize any lease, or

(d) without the approval of the Commission,

(i) sell, lease, mortgage or otherwise dispose of or encumber its property, franchises, privileges or rights, or any part of it or them, or

(ii) merge or consolidate its property, franchises, privileges or rights, or any part of it or them,

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

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

(a) the issue of any shares of its capital stock by an owner of a gas utility under the exercise of an optional right of conversion attaching to any shares, stocks, bonds, debentures, debenture stock or other evidence of indebtedness the issue of which has previously been approved by the Commission or was not required to be approved by the Commission by reason of an existing declaration made under subsection (4),

(b) a right of entry, sale, disposition or other proceedings for the enforcement of a mortgage or charge created by trust deed or other instrument or security, in the enforcement of, or pursuant to, the security thereby constituted or in the exercise of the rights or remedies thereby granted or otherwise available at law, if the trust deed or other instrument or security was approved or authorized by the Commission or was not required to be approved or authorized by the Commission by reason of an existing declaration made under subsection (4), or

(c) the declaration or issuance of a stock dividend by an owner of a gas utility designated under subsection (1).

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

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

(a) in the case of a transaction under subsection (2)(d), is deemed to be no longer void and to have been in force and effect from the date of the transaction, and

(b) in the case of a transaction under subsection (2)(a), (b) or (c), is deemed not to have been in contravention of that subsection,

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

RSA 2000 cG-5 s26;2007 cA-37.2 s82(12)

Prohibited share transactions

27(1) Unless authorized to do so by an order of the Commission, the owner of a gas utility designated under section 26(1) shall not sell or make or permit to be made on its books any transfer of any share or shares of its capital stock to a corporation, however incorporated, if the sale or transfer, by itself or in connection with previous sales or transfers, would result in the vesting in that corporation of more than 50% of the outstanding capital stock of the owner of the gas utility.

(2) Every purported

(a) assignment or transfer, or

(b) agreement for assignment or transfer,

by or through any person or corporation in contravention of subsection (1) is void and of no effect.

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

RSA 2000 cG-5 s27;2007 cA-37.2 s82(12)

Part 2.1
Provision of Gas Services to Customers

Definitions

28 In this Part,

(a) "affiliated electricity retailer" has the meaning given to it in the regulations;

(a.1) "affiliated gas retailer" has the meaning given to it in the regulations;

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

(b) "customer" means a consumer of gas who takes delivery of the gas at its place of consumption by means of a gas distribution system of a gas distributor;

(c) "default rate tariff" means the rates, tolls or charges fixed by the Commission, and the terms or conditions fixed by the Commission, for gas services provided by a default supply provider;

(d) "default supply provider" means a gas distributor, or a person authorized by a gas distributor, who provides gas services to customers pursuant to a default rate tariff;

(d.1) "distribution tariff" means the rates, tolls or charges fixed by the Commission, and the terms and conditions fixed by the Commission, for gas distribution service provided by a gas distributor;

(e) "gas distribution service" means the service required to transport gas to customers by means of a gas distribution system, and includes any services the gas distributor is required to provide by the Commission or is required to provide under this Act or the regulations;

(f) "gas distribution system" means a gas utility that delivers gas to customers through a system of pipelines, works, plant and equipment that is primarily a low pressure system;

(g) repealed 2007 cA-37.2 s82(12);

(h) "gas distributor" means the owner, operator, manager or lessee of a gas distribution system;

(i) "gas services" means

(i) the gas that is provided and delivered, and

(ii) the services associated with the provision and delivery of the gas, including

(A) arranging for the exchange or purchase of the gas,

(B) making financial arrangements to manage the financial risk associated with the price of gas,

(C) arranging for gas distribution service,

(D) arranging for delivery of gas to the gas distributor's specified receipt point or points,

(E) storage,

(F) billing, collection and responding to customer billing inquiries,

(G) maintaining information systems, and

(H) any other services specified by the Minister by order as gas services;

(i.1) "Minister" means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;

(j) "retail gas services" means gas services that are provided by a retailer directly to customers and that are not provided

(i) under a default rate tariff, or

(ii) at or upstream of the inlet to the gas distribution system to a customer acting on the customer's own behalf;

(k) "retailer" means a person who provides retail gas services, and includes an affiliated retailer;

(l) "service area", with respect to a gas distributor, means the area within which customers take delivery of gas at their place of consumption by means of the gas distribution system of the gas distributor;

(m) "settlement system code" has the meaning given to it in the regulations.

2003 c5 s2;2007 cA-37.2 s82(12)

Regulations

28.1(1) The Minister may make regulations

(a) respecting the manner in which the functions of gas distributors, default supply providers and retailers are to be carried out;

(b) respecting the powers, duties, rights and obligations of gas distributors, default supply providers, retailers and customers;

(c) allowing gas distributors, default supply providers and retailers to authorize other persons to perform functions on their behalf, and governing the terms and conditions under which such an authorization may be given;

(d) governing the powers, duties, rights and obligations of persons performing functions pursuant to an authorization referred to in clause (c);

(e) allowing the Commission to approve persons authorized by gas distributors to act as default supply providers;

(f) respecting the responsibility of a gas distributor to develop and offer non-discriminatory distribution tariffs;

(g) respecting billing and who is responsible for performing that function, and respecting accuracy of billing;

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

(i) a gas distributor and its default supply provider,

(ii) a gas distributor and its affiliated retailers, or

(iii) a gas distributor's default supply provider and an affiliated retailer,

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

(i) governing the flow of information between gas distributors, default supply providers and retailers;

(j) respecting arrangements among gas distributors, default supply providers and retailers related to the performing of metering and billing and maintaining information systems;

(k) respecting records to be kept by gas distributors, default supply providers and retailers;

(l) authorizing the Commission to impose administrative penalties in respect of contraventions of the regulations or a Commission order;

(m) authorizing the Commission to establish or approve a settlement system code regarding the provision of gas services and gas distribution service in Alberta;

(n) respecting the matters that the Commission must or may consider or must not consider when considering an

application by a gas distributor or default supply provider for approval of a distribution tariff or a default rate tariff;

(o) defining terms for the purposes of this Part or the regulations;

(p) respecting any other matter the Minister considers necessary or advisable to carry out the intent of this Part;

(q) to deal with any difficulty or impossibility resulting from the operation of this Part.

(2) No authorization may be given under subsection (1)(c) or (e) that lessens or removes the responsibility or liability of the gas distributor, default supply provider or retailer, as the case may be, for carrying out the functions in respect of which the authorization is given.

(3) Subject to the regulations, a customer has the right to obtain gas services from a retailer or default supply provider for delivery to the customer by the gas distributor in whose service area the customer's place of consumption is located, and for that purpose the gas distributor shall transport gas within the service area on behalf of the customer or the retailer or default supply provider at the rates, tolls or charges fixed by the Commission and on the terms and conditions imposed by the Commission.

(4) Subsection (3) applies notwithstanding

(a) a privilege or franchise granted to a gas distributor by a municipality in Alberta, or

(b) a franchise area approval under the *Gas Distribution Act*,

whether or not the privilege, franchise or franchise area approval gives any exclusive rights to the gas distributor.

(5) Subject to the regulations, a gas distributor must provide gas services to customers pursuant to a default rate tariff.

(6) Agreements and grants, including privileges, franchises and franchise area approvals referred to in subsection (4), that are in existence when this Part or any provision that amends this Part comes into force that relate to the transmission, distribution, exchange, purchase or sale of gas are preserved unless subsection (7) applies.

(7) An agreement or a grant, privilege, franchise or franchise area approval referred to in subsection (6) that is expressly or by necessary implication inconsistent with this Part or the provision is deemed to be amended to the extent necessary to make the

agreement, grant, privilege, franchise or franchise area approval consistent with this Part or the provision.

(8) The Minister may by order

(a) approve the professional and other costs relating to the development and implementation of this Part, and

(b) apportion the responsibility for the payment of those costs among gas distributors, or provide for the manner in which responsibility for the payment of those costs is to be apportioned among gas distributors.

(9) Costs that are paid by a gas distributor under subsection (8) are recoverable in the gas distributor's gas distribution tariff.

2003 c5 s2;2007 cA-37.2 s82(12)

Scope of regulations

28.2 Any regulation made under section 28.1 may

(a) be specific or general in its application and include conditions, restrictions and limitations;

(b) apply to all of Alberta or any part of Alberta;

(c) impose or confer on any person named in the regulation any power, duty, responsibility or function in respect of the regulation;

(d) adopt or declare to be in force, with or without modifications, any code or standard specified or described in the regulation.

2003 c5 s2

Service standards

28.3(1) The Commission may make rules respecting service standards for each gas distributor and default supply provider, 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 gas distribution systems;

(d) the regular or periodic maintenance of gas distribution systems 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

(i) the rules made under this subsection, and

(ii) a settlement system code established under section 28.1(1)(m),

and by whom the costs are to be paid;

(j) roles, responsibilities and standards of accuracy with respect to metering and metering services.

(1.1) Repealed 2011 c11 s4.

(2) On application by a person having an interest, or on its own initiative, the Commission may investigate to determine whether a gas distributor or default supply provider is meeting the service standards rules.

(3) If the Commission is of the opinion that the gas distributor or default supply provider has failed or is failing to meet the service standards rules, the Commission may by order do all or any of the following:

(a) direct the gas distributor or default supply provider to take any action to improve services that the Commission considers just and reasonable;

(b) direct the gas distributor or default supply provider to provide the customer with a credit, in an amount specified by the Commission, to compensate the customer for the gas distributor's or default supply provider's failure to meet the service standards rules;

(c) prohibit the gas distributor or default supply provider 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*.

(4) Repealed 2007 cA-37.2 s82(12).

2003 c5 s2;2007 cA-37.2 s82(12);2011 c11 s4

28.4 and **28.5** Repealed 2007 cA-37.2 s82(12)

Facilitated negotiation

28.51(1) The Commission shall recognize or establish rules, practices and procedures that facilitate

(a) the negotiated settlement of matters arising under this Part, and

(b) the resolution of complaints or disputes regarding matters arising under this Part.

(2) 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 c5 s2;2007 cA-37.2 s82(12)

Powers of Commission

28.52 As part of the rules, practices and procedures for the 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 c5 s2;2007 cA-37.2 s82(12)

Commission approval of a settlement

28.53(1) If a settlement of an issue that is within the jurisdiction of the Commission has been negotiated, 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 c5 s2;2007 cA-37.2 s82(12)

Limit on Commission discretion

28.6 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 c5 s2;2007 cA-37.2 s82(12)

Limit on mediators and facilitators

28.7 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 c5 s2;2007 cA-37.2 s82(12)

Commission discretion

28.8(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 c5 s2;2007 cA-37.2 s82(12)

Natural gas market participants

28.9(1) In this section, "natural gas market" and "natural gas market participant" have the same meaning as in the *Alberta Utilities Commission Act*.

(2) Natural gas market participants are to conduct themselves in a manner that supports the fair, efficient and openly competitive operation of the natural gas market.

2007 cA-37.2 s82(12)

Part 3 Repealed 2009 c24 s2.

Part 4
Rates and Schedules

Duties of owner

35 An owner of a gas utility shall, with respect to the gas utility,

(a) file with the Commission complete schedules of every classification employed and of every individual or joint rate, toll, fare or charge made, charged or enacted by the owner for any gas supplied or service rendered within Alberta, as may be prescribed by the Commission,

(b) furnish safe, adequate and proper service and keep and maintain the owner's property and equipment in such condition as to enable the owner to do so,

(c) keep the owner's books, records and accounts so as to afford an intelligent understanding of the conduct of the owner's business and in accord with any uniform system of accounting that the Commission may prescribe by regulations,

(d) furnish annually, and at any other periodic intervals the Commission may require, a detailed report of finances and operations, in a form and containing the matters and verified in a manner the Commission may require, and

(e) subject to any order of the Commission, maintain proper and adequate depreciation, amortization or depletion accounts on a straight line basis or unit of production method or any other basis or method that the Commission may direct on application to it.

RSA 2000 cG-5 s35;2007 cA-37.2 s82(12)

Powers of Commission

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

(a) fix just and reasonable individual rates, joint rates, tolls or charges or schedules of them, as well as commutation and other special rates, which shall be imposed, observed and followed afterwards by the owner of the gas utility,

(b) fix proper and adequate rates and methods of depreciation, amortization or depletion in respect of the property of any owner of a gas utility, who shall make the owner's depreciation, amortization or depletion accounts conform to the rates and methods fixed by the Commission,

(c) fix just and reasonable standards, classifications, regulations, practices, measurements or service, which shall be furnished, imposed, observed and followed thereafter by the owner of the gas utility,

(d) require an owner of a gas utility to establish, construct, maintain and operate, but in compliance with this and any other Act relating to it, any reasonable extension of the owner's existing facilities when in the judgment of the Commission the extension is reasonable and practical and will furnish sufficient business to justify its construction and maintenance, and when the financial position of the owner of the gas utility reasonably warrants the original expenditure required in making and operating the extension, and

(e) require an owner of a gas utility to supply and deliver gas to the persons, for the purposes, at the rates, prices and charges and on the terms and conditions that the Commission directs, fixes or imposes.

RSA 2000 cG-5 s36;2007 cA-37.2 s82(12)

Rate base

37(1) In fixing just and reasonable rates, tolls or charges, or schedules of them, to be imposed, observed and followed afterwards by an owner of a gas utility, the Commission shall determine a rate base for the property of the owner of the gas utility used or required to be used to provide service to the public within Alberta and on determining a rate base it shall fix a fair return on the rate base.

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

(a) to the cost of the property when first devoted to public use and to prudent acquisition cost to the owner of the gas utility, less depreciation, amortization or depletion in respect of each, and

(b) to necessary working capital.

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

RSA 2000 cG-5 s37;2007 cA-37.2 s82(12)

Schedule of rates

38(1) For the purpose of fixing the just and reasonable rates that may be charged to consumers of gas by an owner of a gas utility who purchases gas pursuant to a contract under which provision is made

(a) for the progressive increase in the price of gas to the owner of the gas utility,

(b) for an increase in the price of gas to the owner of the gas utility by reason of changes in any prices received by the owner on resale of the gas,

(c) for an increase in the price of gas to the owner of the gas utility by reason of the payment of higher prices by any purchaser of gas in any gas producing area, or

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

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

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

RSA 2000 cG-5 s38;2007 cA-37.2 s82(12)

Filing of contract with Commission

39 When the owner of a gas utility supplying gas to consumers enters into a contract for the purchase of gas under which provision is made for any of the matters referred to in section 38(1)(a) to (d), a copy of the contract shall be forthwith filed with the Commission and a notice of it sent to those persons the Commission may direct.

RSA 2000 cG-5 s39;2007 cA-37.2 s82(12)

Excess revenues or losses

40 In fixing just and reasonable rates, tolls or charges, or schedules of them, to be imposed, observed and followed afterwards by an owner of a gas utility,

(a) the Commission may consider all revenues and costs of the owner that are in the Commission's opinion applicable to a period consisting of

(i) the whole of the fiscal year of the owner in which a proceeding is initiated for the fixing of rates, tolls or charges, or schedules of them,

(ii) a subsequent fiscal year of the owner, or

(iii) 2 or more of the fiscal years of the owner referred to in subclauses (i) and (ii) if they are consecutive,

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

(b) the Commission may give effect to that part of any excess revenue received or any revenue deficiency incurred by the owner that is in the Commission's opinion applicable to the whole of the fiscal year of the owner in which a proceeding is initiated for the fixing of rates, tolls or charges, or schedules of them, that the Commission determines is just and reasonable,

(c) the Commission may give effect to that part of any excess revenue received or any revenue deficiency incurred by the owner after the date on which a proceeding is initiated for the fixing of rates, tolls or charges, or schedules of them, that the Commission determines has been due to undue delay in the hearing and determining of the matter, and

(d) the Commission shall by order approve

(i) the method by which, and

(ii) the period, including any subsequent fiscal period, during which,

any excess revenue received or any revenue deficiency incurred, as determined pursuant to clause (b) or (c), is to be used or dealt with.

RSA 2000 cG-5 s40;2007 cA-37.2 s82(12)

Increased rates

41 In fixing just and reasonable rates, tolls or charges, or schedules of them, under this Part, to be imposed afterwards by the owner of a gas utility, the Commission shall not fix any rate, toll or charge or schedules of them in a manner that the rate to the consumers or any class of consumers may be increased from year to year or other period without a further application to and order of the Commission.

RSA 2000 cG-5 s41;2007 cA-37.2 s82(12)

Review of affairs

42(1) The Commission shall, at least once in every 3 years, review the affairs, earnings and accounts of each owner of a gas utility in respect of which the Commission has previously fixed rates, tolls or charges, or schedules of them, under section 36.

(2) The Commission may from time to time in its discretion review the affairs, earnings and accounts of any owner of a gas utility in respect of whose business the Commission has not fixed rates, tolls, or charges under section 36.

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

RSA 2000 cG-5 s42;2007 cA-37.2 s82(12)

Increase in rates

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

RSA 2000 cG-5 s43;2007 cA-37.2 s82(12)

New rates

44(1) No change in any existing rates, tolls or charges, or schedules of them, or any special rates shall be made by an owner of a gas utility, nor shall any new schedule of rates, tolls or charges be established, until the changed rates or new rates are approved by the Commission.

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

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

RSA 2000 cG-5 s44;2007 cA-37.2 s82(12)

Incentives

45(1) Instead of fixing or approving rates, tolls or charges, or schedules of them, under sections 36(a), 37, 40, 41, 42 and 44, the Commission, on its own initiative or on the application of a person having an interest, may by order in writing fix or approve just and reasonable rates, tolls or charges, or schedules of them,

(a) that are intended to result in cost savings or other benefits to be allocated between the owner of the gas utility and its customers, or

(b) that are otherwise in the public interest.

(2) The Commission may specify terms and conditions that apply to an order made under this section.

RSA 2000 cG-5 s45;2007 cA-37.2 s82(12)

Investigations

46(1) Without in any way affecting the jurisdiction of the Commission, other than as expressly provided for in this section, the Commission

(a) may hear any application on behalf of the council of any municipality within which gas is distributed or supplied by a gas utility,

(b) may investigate the question of the supply of gas and the cost of producing, conveying, distributing, supplying and selling gas to consumers within the municipality,

(c) may investigate any other matter or question in the opinion of the Commission incidental to or bearing on the main question or matter under investigation, and

(d) may make a report on an investigation to the council of the municipality and the person operating the gas utility.

(2) If the council of a municipality in its application or by a subsequent application makes request for it, the Commission shall, when in its opinion the supply of gas is inadequate for the demand of consumers of gas within the municipality, prescribe reasonable rules and regulations requiring the gas utility conveying gas to, or distributing it within the municipality to augment the supply of gas so conveyed or distributed, when in the judgment of the Commission it is practicable to do so.

(3) If any request for it is made under this section, the Commission shall fix and determine a reasonable price or prices at which gas will be sold within the municipality, having regard to the purpose for which it is used, and shall fix the period during which those prices are to be in effect, and may also prescribe fair and reasonable rates and charges for producing, conveying, distributing, buying or selling gas, or may establish a fair and equitable division of the proceeds of the sale of gas between the person producing or supplying the gas, and the person distributing or selling it to consumers within the municipality.

(4) For the purposes of this section, the Commission may exercise all the powers and rights exercisable by it under this Act or the *Public Utilities Act* and in particular but without limiting the generality of the foregoing, the Commission may exercise all its powers and rights with respect to the summoning and examination of witnesses, and the production and inspection of documents.

(5) The costs of the investigation are in the discretion of the Commission.

RSA 2000 cG-5 s46;2007 cA-37.2 s82(12)

Accounts

47 Every municipality operating a gas utility shall keep the accounts of it in the manner prescribed by the Commission for the accounting by the owners of similar gas utilities, and shall file with the Commission any statements of account that may be directed by the Commission.

RSA 2000 cG-5 s47;2007 cA-37.2 s82(12)

Municipal utility

48 When a bylaw of the council of a municipality has been passed and approved under section 4, the municipality may, notwithstanding the bylaw or anything in this Act, impose rates, tolls or charges in addition to those fixed by the Commission if the invoices submitted to its consumers

(a) clearly distinguish the amounts being charged on the basis of the rates, tolls or charges fixed by the Commission from the additional amounts imposed by the municipality, and

(b) identify the additional amounts imposed by the municipality as a surcharge or tax.

RSA 2000 cG-5 s48;2007 cA-37.2 s82(12)

Part 4
Miscellaneous

Franchises

Privileges and franchises

49(1) No privilege or franchise granted to any owner of a gas utility by any municipality within Alberta is valid until approved by the Commission.

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

(3) The Commission may, in giving its approval under subsection (2), impose any conditions as to construction, equipment, maintenance, service or operation that the public convenience and interests reasonably require.

RSA 2000 cG-5 s49;2007 cA-37.2 s82(12)

Municipal franchises and extra-provincial companies

50(1) No municipality shall enter into any agreement with, or grant any franchise to, any company the business and operations of which are not subject to the legislative authority of Alberta for the operation, management or control of any system, works, plant or equipment for the production, transmission, delivery or furnishing of gas, either directly or indirectly, to the municipality, unless there is contained in the agreement or grant a provision whereby the company agrees to submit its business and operations to the control and supervision of the Commission in the same manner and to the same extent as if the company were an owner of a gas utility within the meaning of this Act.

(2) A provision required under subsection (1) shall, before the final entering into of any agreement or the granting of any franchise, be submitted for approval to the Commission.

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

RSA 2000 cG-5 s50;2007 cA-37.2 s82(12)

Gas Contracts

Discontinuing gas supply

51 Notwithstanding the terms of any contract, a person or company furnishing or supplying gas by retail or wholesale either directly or indirectly to or for the public or any member of the public shall not discontinue the furnishing or supplying of the gas by reason of or pursuant to any other contractual obligations in respect of the furnishing or supplying of gas.

RSA 1980 cG-4 s42

Offences

Offences and penalties

52(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.

RSA 2000 cG-5 s52;2003 c5 s2;2007 cA-37.2 s82(12)

53 to **57** Repealed 2007 cA-37.2 s82(12).

Municipal Right

Municipal intervention

58(1) If the council of a municipality considers that the interest of the public in the municipality or in a considerable portion of the municipality is sufficiently concerned, the council may by resolution authorize the municipality to become a complainant or intervenant in any matter within the jurisdiction of the Commission.

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

RSA 2000 cG-5 s58;2007 cA-37.2 s82(12)

General

General powers of Commission

59 For the purposes of this Act, the commission has the same powers in respect of the plant, premises, equipment, service and organization for the production, distribution and sale of gas in Alberta, and in respect of the business of an owner of a gas utility and in respect of an owner of a gas utility, that are by the *Public Utilities Act* conferred on the Commission in the case of a public utility under that Act.

RSA 2000 cG-5 s59;2007 cA-37.2 s82(12)

Application of the Public Utilities Act

60 All the provisions of the *Public Utilities Act* relating to the jurisdiction of the Commission, hearings, service of notices or orders, regulations, rules and procedure, enforcement of orders, appeals, rights, privileges and immunities of the Commission, and applicable in the case of a public utility under that Act, if not provided for expressly in this Act, apply and have effect as if this Act formed a part of the *Public Utilities Act*.

RSA 2000 cG-5 s60;2007 cA-37.2 s82(12)

Alberta Utilities Commission Act prevails

61 If, with respect to matters under sections 59 and 60, there is a conflict between the *Alberta Utilities Commission Act* and the *Public Utilities Act*, the *Alberta Utilities Commission Act* prevails.

2007 cA-37.2 s82(12)

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