SMALL POWER RESEARCH AND DEVELOPMENT ACT

SMALL POWER RESEARCH AND DEVELOPMENT REGULATION

Alberta Regulation 336/1988

With amendments up to and including Alberta Regulation 56/2015

Office Consolidation

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Note

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

1(1) For the purposes of the Small Power Research and Development Act and this Regulation,

(a) “Act” means the Small Power Research and Development Act;

(b) “biomass” means

(i) plant and animal materials,

(ii) municipal waste, and
(iii) substances derived from biological growth, including plant, animal and human waste and residues, that consist primarily of carbohydrates and are of a renewable nature;

(b.1) “biomass facility” means an eligible power production facility that produces electric energy from biomass;

(c) “nameplate capacity” means the net capacity of the generator that is supplied to the grid after station service and on-site power requirements are met;

(c.1) “peat facility” means an eligible power production facility that produces electric energy from peat;

(d) “pilot project” means an eligible power production facility within the meaning of section 1(a) of the Act and this Regulation that has a nameplate capacity of more than 2.5 MW but not more than the maximum nameplate capacity determined under section 6(c);

(e) “point of interconnection” means the point at which an eligible power production facility interfaces with the facilities of a public utility for the purpose of transferring electric energy to the public utility;

(f) “service area” means the service area of a public utility’s electric distribution system, as established under the Hydro and Electric Energy Act;

(g) “single power production facility” means a single site with a single point of interconnection.

(2) For the purposes of section 4(1)(c) of the Act, “cost of metering the delivered power” includes only the cost directly attributable to metering the amount of the delivered power, and does not include any cost attributable to monitoring any other aspect of the delivered power.

(3) For the purposes of section 4(1)(b) and (3) of the Act, “power delivered under the contract” does not include any power delivered under the contract that is in excess of the amount of the final allocation of capacity.

Designated public utilities

2 The public utilities that are owned or operated by the persons listed in the Schedule are hereby designated as public utilities to which the Act applies.

AR 336/88 s2
Termination date
3 The Minister may not make a final allocation of capacity under section 3 of the Act after December 31, 1994.

AR 336/88 s3;221/92;251/2001

Maximum program capacity
4 The maximum program capacity for the purposes of the Act is 125 MW, and is the net supply of capacity to the grid.

AR 336/88 s4;292/91

Ineligible facilities
5 A power production facility is not an eligible power production facility for the purposes of the Act if

(a) it is owned or controlled, directly or indirectly, by Alberta Power Limited, The City of Edmonton (Edmonton Power) or TransAlta Utilities Corporation, or

(b) it is owned or controlled, directly or indirectly, by a person or group of persons who beneficially owns more than 20% of the issued voting shares of Alberta Power Limited or TransAlta Utilities Corporation.

AR 336/88 s5;292/91

Inflation adjustment for price
5.1 For the purposes of section 4(1)(b)(ii) of the Act the annual adjustment of the price for inflation shall be calculated on January 1 of each year by increasing the price for the previous calendar year by a percentage equal to the rate of inflation for that previous calendar year for Alberta as shown in the Alberta Consumer Price Index, All Items, published by Statistics Canada.

AR 292/91 s5;251/2001

Powers of Minister
6 The Minister may determine

(a) the portion of the maximum program capacity that is to be allocated among each of the different kinds of eligible power production facilities,

(b) the portion of the maximum program capacity that is to be allocated to pilot projects and to eligible power production facilities other than pilot projects,

(c) the maximum nameplate capacity of a pilot project for the purposes of section 1(d), and
(d) the manner of determining the priority to be given to applications where the total capacity applied for exceeds the capacity available for allocation.

AR 336/88 s6

Application for allocation of capacity

7(1) A small power producer who wishes to receive an allocation of capacity in respect of his power production facility shall submit to the Minister an application in a form acceptable to the Minister, and the application shall be accompanied by any documents and information required by the form.

(2) The Minister may require the applicant to provide any additional documents or information the Minister considers necessary in order to enable him to deal with the application.

AR 336/88 s7

Initial allocation of capacity

8(1) Where an application under section 7 relates to a power production facility with a nameplate capacity of not more than 2.5 MW and the Minister determines that it is an eligible power production facility, he may, subject to section 6, make an initial allocation of capacity in respect of the facility.

(2) Where an application under section 7 relates to a power production facility with a nameplate capacity that exceeds 2.5 MW, the Minister may, subject to section 6, make an initial allocation of capacity in respect of the facility if

(a) he is satisfied that the facility is an eligible power production facility, and

(b) he considers that it would be appropriate to make an initial allocation of capacity, based on the following considerations:

(i) the location and nameplate capacity of the facility;

(ii) the nature and availability of the proposed fuel source for the facility;

(iii) whether the construction and operation of the facility will provide social or economic benefits to Alberta;

(iv) whether the nature of the technology or processes used in the construction or operation of the facility would contribute to the advancement of small power production in Alberta;
(v) any other factors the Minister considers to be relevant in determining whether or not an allocation of capacity should be made in respect of the facility.

AR 336/88 s8;292/91

Information to Minister

8.1 At any time after the making of an initial allocation of capacity and before the making of a final allocation of capacity the Minister may by notice in writing require a small power producer to provide to the Minister by the time specified in the notice information specified in the notice relating to any or all of the following:

(a) the location or nameplate capacity of the facility;
(b) the fuel to be used in the facility;
(c) the technology to be employed in the facility;
(d) the ownership or control of the facility.

AR 292/91 s7

Cancellation of initial allocation of capacity

9 The Minister may, by notice in writing, cancel an initial allocation of capacity if

(a) the small power producer fails to make application to the Alberta Utilities Commission under section 11 of the Hydro and Electric Energy Act within 120 days after the date of the initial allocation of capacity or within any further period the Minister on application allows,

(a.1) the Minister considers that the small power producer is not proceeding diligently towards final allocation of capacity,

(a.2) the small power producer fails to comply with a notice given under section 8.1, or

(b) the small power producer fails to comply with the requirements of the Act and this Regulation leading up to final allocation of capacity.

AR 336/88 s9;292/91;251/2001;89/2013

Final allocation of capacity

10(1) Where an initial allocation of capacity has been made, the Minister may, subject to section 3 of the Act, make a final allocation of capacity.
(2) Where initial allocation of capacity is made before July 1, 1991, the Minister may not make a final allocation of capacity unless

(a) the small power producer complies with section 3(2) of the Act, and

(b) the public utility complies with section 4(5) of the Act in respect of the small power production contract

not later than December 31, 1993.

AR 336/88 s10;221/92;251/2001

Cancellation of final allocation of capacity

11 The Minister may, by notice in writing, cancel a final allocation of capacity if he considers that the small power producer to whom the allocation relates is not proceeding diligently with the development of the eligible power production facility to the production stage.

AR 336/88 s11

Ministerial approval for changes

11.1(1) After initial allocation of capacity has been made, the small power producer may not, without the prior approval of the Minister, make any material change to

(a) the location or nameplate capacity of the facility,

(b) the fuel to be used in the facility,

(c) the technology to be employed in the facility, or

(d) the ownership or control of the facility.

(2) Where a small power producer makes changes referred to in subsection (1) without the prior approval of the Minister, the facility automatically ceases to be an eligible power production facility.

AR 292/91 s9

Term of contract

12(1) The term of a small power production contract shall be

(a) in the case of an eligible power production facility with a nameplate capacity of 2.5 MW or less, a period agreed on by the owner of the public utility and the small power producer or determined by the Alberta Utilities Commission under section 4(4) of the Act, or
(b) in the case of a pilot project, a period determined by the Minister.

(1.1) The term of a small power production contract may not commence on a date that is earlier than the date on which final allocation of capacity is made.

(2) In agreeing on or determining the term of a contract

(a) the parties to the contract, the Alberta Utilities Commission or the Minister, as the case may be, shall, as far as is reasonably possible, ensure that the term of the contract is a period of time that is equal to the operating life of the eligible power production facility, and

(b) in no case may the term of the contract be less than 10 years or more than 20 years.

(3) The term of a small power production contract terminates if the facility ceases to be an eligible power production facility.

Record keeping

13 The Minister may in writing direct the owner of a public utility and a small power producer

(a) to keep specified records with respect to the installation and operation of equipment related to the connection between the eligible power production facility and the public utility and to make specified reports with respect to that equipment to specified persons and at specified times, and

(b) to keep any other records and information the Minister specifies.

Use of supplementary fuel

14(1) In this section,

(a) “commencement of operation” means, subject to subsection (2), the first day of the month following the 90th day after the biomass facility or peat facility operates continuously for 48 hours at a generated output greater than 40% of its nameplate capacity;

(b) “contracting utility” means the public utility with whom the small power producer has entered into a small power production contract;
(c) “total fuel required” means the total amount of fuel used to generate the power produced by the biomass facility or peat facility, calculated as required under subsection (4)(a).

(2) A small power producer who owns a biomass facility or peat facility shall notify the Alberta Utilities Commission in writing of the commencement of operation of the facility within 30 days after that date.

(3) For the purposes of section 2(1) of the Act, once commencement of operation of a biomass facility or peat facility has been achieved, not more than 15% of the total fuel required during any calendar year of the small power production contract may be supplementary fuel.

(4) A small power producer who owns a biomass facility or peat facility and uses or intends to use supplementary fuel

(a) shall determine a method of calculating the amounts and heating values of the fuels used that is satisfactory to the Alberta Utilities Commission and submit the matter to the Commission before final allocation of capacity is made;

(b) shall prepare plans for the monitoring of the fuels to be used, including the type of equipment to be used, and shall submit the plans to the Alberta Utilities Commission before final allocation of capacity is made;

(c) shall monitor all fuels used, separately by type and use;

(d) shall, on or before February 15 of each year, provide to the Alberta Utilities Commission

(i) information showing on a monthly basis the type, amount and heating value of each fuel used in the facility in the preceding calendar year, such information to be based on methods and plans determined and prepared in accordance with clauses (b) and (c), and

(ii) any other information relative to the facility for the preceding calendar year that is requested by the Commission.

(5) If the Alberta Utilities Commission determines that the use of supplementary fuel exceeds the permissible level in subsection (3) in respect of a calendar year, it shall notify the owner of the eligible power production facility and the public utility of that fact.

AR 292/91 s11;251/2001;89/2013
Expiry

15 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on June 30, 2020.

AR 56/2015 s5

Schedule

1 Alberta Power Limited
2 City of Edmonton (Edmonton Power)
3 TransAlta Utilities Corporation
4 City of Calgary
5 Town of Cardston
6 Municipality of Crowsnest Pass
7 Town of Fort McLeod
8 City of Lethbridge
9 Town of Ponoka
10 City of Red Deer

AR 336/88 Sched.