



Province of Alberta

## ELECTRIC UTILITIES ACT

# DISTRIBUTION TARIFF REGULATION

### **Alberta Regulation 162/2003**

With amendments up to and including Alberta Regulation 209/2020

Current as of March 1, 2021

### Office Consolidation

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### **Note**

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(Consolidated up to 209/2020)

**ALBERTA REGULATION 162/2003**

**Electric Utilities Act**

**DISTRIBUTION TARIFF REGULATION**

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**Interpretation**

**1** In this Regulation,

- (a) “Act” means the *Electric Utilities Act*;
- (b) “business days” means any day other than Saturdays or a holiday as defined in the *Interpretation Act*;
- (c) “credit rating” means a bond rating according to Standard and Poor’s bond rating service or an equivalent bond rating from Dominion Bond Rating Service or Moody’s Investors Service;
- (d) “owner” means the owner of an electric distribution system;
- (e) “regulatory authority” means the entity that approves the owner’s distribution tariff under section 102 of the Act.

**Content of distribution tariff**

**2(1)** A distribution tariff referred to in section 102 of the Act must include

- (a) the terms and conditions under which the owner proposes to offer distribution access service, and
- (b) a charge for providing system access service that is separate from the charges for other components of distribution access service.

**(2)** The terms and conditions referred to in subsection (1)(a) must include a provision relating to the disconnection of a customer for non-payment of a bill in accordance with the following:

- (a) the owner must not disconnect the customer
  - (i) at any time during the period from October 15 to April 15, or
  - (ii) at any other time when the temperature is forecast to be below 0 degrees Celsius in the 24-hour period immediately following the proposed disconnection;
- (b) the owner may install a device to limit or reduce the amount of electric energy provided to the customer.

**(3)** Subsection (2) applies to residential and farm rate classification customers as defined in a distribution tariff.

**(4)** A provision referred to in subsection (2) must be included as soon as is reasonably possible, but not later than October 15, 2004.

AR 162/2003 s2;6/2004

**Joint tariffs**

**3(1)** Instead of preparing individual distribution tariffs, two or more rural electrification associations that own electric distribution systems may, for the purpose of pooling their own costs of providing distribution access service, prepare one joint distribution tariff that is based on those pooled costs.

**(2)** A joint distribution tariff referred to in subsection (1) must be approved by the board of directors of each participating rural electrification association.

**Board approval of distribution tariff**

**4(1)** EPCOR Distribution Inc. and ENMAX Power Corporation must each apply for approval of its distribution tariff under section 102 of the Act to the Board not later than October 1, 2003.

- (2) The application under subsection (1) may include any distribution tariff riders approved by the council of the municipality on or before October 1, 2003 for recovery of deferral accounts in place for costs or charges incurred before January 1, 2004.
- (3) On receiving an application under subsection (1), the Board must, not later than November 30, 2003,
- (a) approve without change or alteration any distribution tariff riders referred to in subsection (2), and
  - (b) subject to subsection (4), approve a final distribution tariff to take effect on January 1, 2004.
- (4) If the Board does not approve a final distribution tariff under subsection (3)(b), the Board must approve
- (a) not later than November 30, 2003, an interim distribution tariff to take effect on January 1, 2004, and
  - (b) not later than October 1, 2004, a final distribution tariff to take effect on the date specified by the Board.

#### **Commission consideration**

**5** When considering an application for approval of a distribution tariff under section 102 of the Act the Commission must examine the reasonableness of the owner's billing costs, and other costs the Commission considers appropriate in the prevailing circumstances, without regard to any overall increase in costs due to the separation of distribution access service and the provision of electricity services.

AR 162/2003 s5;254/2007

#### **Tariff provided for information**

**6** If the Commission is not the regulatory authority who approved an owner's distribution tariff, the owner must provide a copy of its distribution tariff to the Commission for information before the tariff takes effect.

AR 162/2003 s6;254/2007

#### **Appeal to the Commission**

**7(1)** A person who uses, receives or pays for a service provided by a rural electrification association under its distribution tariff may appeal to the Commission a charge, rate or toll made in respect of the service, but may not appeal the rate structure of the rural electrification association.

(2) If the Commission is satisfied that the appellant's charge, rate or toll

- (a) does not conform to the rate structure established by the rural electrification association,
- (b) has been improperly imposed, or
- (c) is discriminatory,

the Commission may order the charge, rate or toll to be wholly or partly varied, adjusted or disallowed.

AR 162/2003 s7;254/2007

#### **Security requirement**

**8(1)** An owner must require a retailer to provide a security deposit before the owner provides service to the retailer under the owner's distribution tariff.

(2) The security deposit must be in an amount equal to the value projected by the retailer of the retailer's payments under the owner's distribution tariff over a period equal to the lesser of

- (a) 45 days, or
- (b) the total of
  - (i) 20 days, plus
  - (ii) the number of days between consecutive bills issued by the owner to the retailer, plus
  - (iii) the number of days from the issuance of a bill by an owner until payment is due from the retailer.

(3) Subject to section 9, the security must be provided in the form of a financial deposit, a bond, an irrevocable letter of credit or an irrevocable guarantee from a person, other than the retailer, with a credit rating.

(4) If one or more persons provide an irrevocable guarantee under subsection (3),

- (a) the amount of each guarantee must not exceed the amount by which a retailer would have its security deposit reduced under section 9(3) if the retailer had the same credit rating as the person providing the guarantee, and
- (b) the total of the guarantees must not exceed the maximum amount of the largest single guarantee that is allowed under clause (a).

(5) An owner must confirm the amount of security required to be provided by a retailer within 20 business days of receipt of the retailer's complete application for service under the owner's distribution tariff.

(6) If a retailer's actual outstanding charges under the owner's distribution tariff are materially greater than the value projected by the retailer under subsection (2), the owner must update the projection under subsection (2) and, if additional security is required based on the updated projection, require the retailer to provide the additional security.

(7) A retailer that is required under subsection (6) to provide additional security must provide that additional security to the owner within 5 business days of the owner requiring the additional security.

(8) An owner must use reasonable diligence to advise a retailer if additional security is required in accordance with subsection (6).

(9) All costs incurred by a retailer in providing the security required under this Regulation are the responsibility of the retailer.

AR 162/2003 s8;209/2020

#### **Adjustment for credit rating**

**9(1)** A retailer may provide its current credit rating to the owner.

(2) If a retailer has obtained more than one credit rating, the retailer must provide the lowest credit rating to the owner under subsection (1).

(3) A retailer that provides its credit rating must have the security deposit required under section 8 reduced as follows:

- (a) by \$25 000 000 if the credit rating is AAA- or higher;
- (b) by \$20 000 000 if the credit rating is between AA- and AA+, inclusive;
- (c) by \$15 000 000 if the credit rating is between A- and A+, inclusive;
- (d) by \$10 000 000 if the credit rating is between BBB- and BBB+, inclusive.

(4) Notwithstanding subsection (3), the security deposit must not be less than \$0.

(5) A retailer must advise the owner of any downgrading of its credit rating within 2 business days of the downgrading and must

provide any additional security required as a result of the downgrading within 5 business days of the downgrading.

(6) A retailer may advise the owner of any upgrading of its credit rating.

(7) If the amount of security required from a retailer is reduced as a result of an upgraded credit rating, the owner must return any financial deposit no longer required to the retailer within 20 business days of being advised by the retailer of the upgraded credit rating.

#### **Appeal to regulatory authority**

**10(1)** A retailer may appeal to the owner's regulatory authority the amount of security required by an owner under this Regulation.

(2) In determining an appeal commenced pursuant to this section, the regulatory authority may confirm or vary the amount of the security deposit to be provided by the retailer to the owner.

(3) If the regulatory authority varies the amount of the security deposit, the amount must be consistent with the requirements of sections 8 and 9.

#### **Security to be maintained**

**11(1)** A retailer that is required to provide security under section 8 must maintain that amount of security until all obligations of the retailer under the distribution tariff are satisfied.

(2) An owner is entitled to retain the security provided by the retailer until all obligations of the retailer under the distribution tariff are satisfied.

#### **Default by retailer**

**12(1)** Subject to subsection (4), if a retailer defaults in its payments under a distribution tariff, the owner must provide the retailer with a notice in writing

- (a) stating that the retailer is in default in its payments to the owner under the tariff, and
- (b) advising that the owner may make a claim against the retailer's security if the arrears are not paid within 3 business days after the date of the notice.

(2) If after the expiry of the period set out in subsection (1)(b), the retailer's arrears remain unpaid, the owner may make a claim against the retailer's security to recover the arrears.

- (3) If the retailer has provided security in the form of a financial deposit, the owner may deduct from that deposit the amount of the unpaid arrears.
- (4) If in the opinion of the owner the giving of notice in accordance with subsection (1) would impair the owner's ability to make a claim against a retailer's security or to deduct the unpaid arrears from a retailer's financial deposit, the owner may make the claim or deduct the unpaid arrears without notice.
- (5) An owner is entitled to recover as part of its distribution tariff any costs not covered by a claim against the retailer's security under this section.

**Repeal**

- 13** The *Distribution Regulation* (AR 84/2000) is repealed.

**Expiry**

- 14** For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on April 30, 2031.

AR 162/2003 s14;224/2012;11/2018;209/2020

**Coming into force**

- 15** This Regulation comes into force on the coming into force of Parts 1 to 10 of the *Electric Utilities Act*, SA 2003 cE-5.1.







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