



Province of Alberta

ALBERTA UTILITIES COMMISSION ACT
ELECTRIC UTILITIES ACT

LIABILITY PROTECTION REGULATION

Alberta Regulation 66/2004

With amendments up to and including Alberta Regulation 114/2018

Current as of August 1, 2018

Office Consolidation

© Published by Alberta Queen's Printer

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(Consolidated up to 114/2018)

ALBERTA REGULATION 66/2004

**Alberta Utilities Commission Act
Electric Utilities Act**

LIABILITY PROTECTION REGULATION

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Definitions

1(1) In this Regulation,

(a) repealed AR 60/2014 s2;

- (b) “ISO” means the Independent System Operator as defined in the *Electric Utilities Act*;
- (c) “MSA” means the Market Surveillance Administrator continued under section 32 of the *Alberta Utilities Commission Act*.

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

- (a) affiliate;
- (b) ancillary services;
- (c) Balancing Pool;
- (d) Commission;
- (e) electric distribution system;
- (e.1) electricity market;
- (f) generating unit;
- (g) interconnected electric system;
- (h) ISO tariff;
- (i) repealed AR 114/2018 s2;
- (j) repealed AR 60/2014 s2;
- (k) owner;
- (l) person;
- (m) power purchase arrangement;
- (n) transmission facility.

AR 66/2004 s1;254/2007;60/2014;114/2018

Part 1

Additional Liability Protection

Definitions for Part 1

2 In this Part,

- (a) “ancillary services provider” means a person that provides ancillary services to the ISO, directly or indirectly, including through the electricity market or as a power

purchase arrangement owner pursuant to a power purchase arrangement;

- (b) “black start service” means, following a partial or complete black out, the start up or attempted start up of a generating unit without external electrical supply and thereafter energizing or attempted energizing of a portion of the interconnected electric system to allow other connected generating units to start up;
- (c) “black start service act” means any act or omission carried out or purportedly carried out by a black start service provider related solely to providing black start service to the ISO;
- (d) “black start service provider” means
 - (i) a person that provides black start service to the ISO,
 - (ii) a person who is a member of a joint venture with or is a partner of a person referred to in subclause (i), including a general partner of a limited partnership,
 - (iii) an affiliate of a person referred to in subclauses (i) and (ii), and
 - (iv) each director, officer and employee of a person referred to in subclauses (i) to (iii);
- (e) “power purchase arrangement owner” means the “Owner” as defined in a power purchase arrangement.

AR 66/2004 s2;221/2004;114/2018

Liability protection for additional persons

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

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

- (g) each director, officer and employee of a person referred to in clauses (a) to (f).

AR 66/2004 s3;60/2014

Black start service

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

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

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

AR 66/2004 s4;221/2004;60/2014

Part 2 Additional Market Surveillance Persons

Definition for Part 2

5 In this Part, “additional market surveillance person” means each director, officer and employee of a market surveillance person described in section 61(1)(c)(iv) and (v) of the *Alberta Utilities Commission Act*.

AR 66/2004 s5;60/2014

Liability protection for additional market surveillance persons

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

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

as the market surveillance person for a market surveillance act under section 61 of the *Alberta Utilities Commission Act*.

(2) In this section,

- (a) “market surveillance act” has the same meaning as “market surveillance act” in section 61(1)(b) of the *Alberta Utilities Commission Act*;

- (b) “market surveillance person” has the same meaning as “market surveillance person” in section 61(1)(c) of the *Alberta Utilities Commission Act*.

AR 66/2004 s6;60/2014

MSA indemnity

7 The MSA must indemnify an additional market surveillance person in the same manner and in the same circumstances as described in section 61(5) of the *Alberta Utilities Commission Act*, and the amounts paid to or on behalf of an additional market surveillance person under this section may be recovered in the manner described in section 61(6) of that Act.

AR 66/2004 s7;60/2014

Part 3 Additional Balancing Pool Persons

Definition for Part 3

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

AR 66/2004 s8;60/2014

Liability protection for additional balancing pool persons

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

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

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

(2) In this section,

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

AR 66/2004 s9;60/2014

Balancing Pool indemnity

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

AR 66/2004 s10;60/2014

**Part 4
Transitional Provisions and Expiry****Commission obligations respecting ISO tariff**

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

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

AR 66/2004 s11;254/2007;60/2014

Protection for ISO

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

AR 66/2004 s12;60/2014

Expiry

13 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on April 30, 2024.

AR 66/2004 s13;60/2014;7/2018



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