

Ontario Energy Board Act, 1998

S.O. 1998, CHAPTER 15 Schedule B

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PART I GENERAL

Board objectives, electricity

1 (1) The Board, in carrying out its responsibilities under this or any other Act in relation to electricity, shall be guided by the following objectives:

1. To protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service.
- 1.1 To promote the education of consumers.

2. To promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry.
3. To promote electricity conservation and demand management in a manner consistent with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances.
4. To facilitate the implementation of a smart grid in Ontario.
5. To promote the use and generation of electricity from renewable energy sources in a manner consistent with the policies of the Government of Ontario, including the timely expansion or reinforcement of transmission systems and distribution systems to accommodate the connection of renewable energy generation facilities. 2004, c. 23, Sched. B, s. 1; 2009, c. 12, Sched. D, s. 1; 2015, c. 29, s. 7.

(2) REPEALED: 2016, c. 10, Sched. 2, s. 11.

Section Amendments with date in force (d/m/y)

2002, c. 23, s. 4 (1) - 09/12/2002

2003, c. 3, s. 2 - 01/08/2003

2004, c. 23, Sched. B, s. 1 - 01/01/2005

2009, c. 12, Sched. D, s. 1 - 09/09/2009

2015, c. 29, s. 7 - 04/03/2016

2016, c. 10, Sched. 2, s. 11 - 01/07/2016

Board objectives, gas

2 The Board, in carrying out its responsibilities under this or any other Act in relation to gas, shall be guided by the following objectives:

1. To facilitate competition in the sale of gas to users.
 2. To protect the interests of consumers with respect to prices and the reliability and quality of gas service.
 3. To facilitate rational expansion of transmission and distribution systems.
 4. To facilitate rational development and safe operation of gas storage.
 5. To promote energy conservation and energy efficiency in accordance with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances.
- 5.1 To facilitate the maintenance of a financially viable gas industry for the transmission, distribution and storage of gas.
6. To promote communication within the gas industry and the education of consumers. 1998, c. 15, Sched. B, s. 2; 2002, c. 23, s. 4 (2); 2003, c. 3, s. 3; 2004, c. 23, Sched. B, s. 2; 2009, c. 12, Sched. D, s. 2.

Section Amendments with date in force (d/m/y)

2002, c. 23, s. 4 (2) - 09/12/2002

2003, c. 3, s. 3 - 01/08/2003

2004, c. 23, Sched. B, s. 2 - 01/01/2005

2009, c. 12, Sched. D, s. 2 - 09/09/2009

Board objectives, implementation plans

2.1 The Board, in exercising its powers and performing its duties under this or any other Act, shall be guided by the objective of facilitating the implementation of any directives issued under subsection 25.30 (2) of the *Electricity Act, 1998* in accordance with the implementation plans submitted by the Board and approved under clause 25.31 (5) (a) of that Act, including any amendments submitted by the Board and approved under that clause. 2016, c. 10, Sched. 2, s. 12.

Section Amendments with date in force (d/m/y)

2016, c. 10, Sched. 2, s. 12 - 01/07/2016

Definitions

3 In this Act,

Licence conditions

70 (1) A licence under this Part may prescribe the conditions under which a person may engage in an activity set out in section 57 and a licence may also contain such other conditions as are appropriate having regard to the objectives of the Board and the purposes of the *Electricity Act, 1998*. 1998, c. 15, Sched. B, s. 70 (1).

Approvals, etc., with or without holding hearing

(1.1) The Board may, with or without a hearing, grant an approval, consent or make a determination that may be required for any of the matters provided for in a licensee's licence. 2009, c. 12, Sched. D, s. 10.

Examples of conditions

- (2) The conditions of a licence may include provisions,
- (a) specifying the period of time during which the licence will be in effect;
 - (b) requiring the licensee to provide, in the manner and form determined by the Board, such information as the Board may require;
 - (c) requiring the licensee to enter into agreements with other persons on specified terms (including terms for a specified duration) approved by the Board relating to its trading or operations or for the connection to or use of any lines or plant owned or operated by the licensee or the other party to the agreement;
 - (d) governing the conduct of the licensee, including the conduct of,
 - (i) a transmitter or distributor as that conduct relates to its affiliates,
 - (ii) a distributor as that conduct relates to a retailer,
 - (ii.1) a distributor or suite meter provider as such conduct relates to,
 - (A) the disconnection of the supply of electricity to a consumer, including the manner in which and the time within which the disconnection takes place or is to take place, and with respect to a low-volume consumer, periods during which the disconnection may not take place,
 - (B) the manner, timing and form in which the notice under subsection 31 (2) of the *Electricity Act, 1998* is to be provided to the consumer, and
 - (C) subject to the regulations, the manner and circumstances in which security is to be provided or not to be provided by a consumer to a distributor or suite meter provider, including,
 - (1) the interest rate to be applied to amounts held on deposit and payable by the distributor or suite meter provider to the consumer for the amounts,
 - (2) the manner and time or times by which the amounts held on deposit may or must be paid or set-off against amounts otherwise due or payable by the consumer,
 - (3) the circumstances in which security need not be provided or in which specific arrangements in respect of security may or must be provided by the distributor or suite meter provider to the consumer, and
 - (4) such other matters as the Board may determine in respect of security deposits,
 - (iii) a retailer, and
 - (iv) a generator, retailer or person licensed to engage in an activity described in clause 57 (f) or an affiliate of that person as that conduct relates to the abuse or possible abuse of market power;
 - (d.1) governing conditions relating to any matter prescribed by regulation in respect of retailers of electricity in relation to the retailing of electricity, subject to any regulations made under this Act;
 - (e) specifying methods or techniques to be applied in determining the licensee's rates;
 - (f) requiring the licensee to maintain specified accounting records, prepare accounts according to specified principles and maintain organizational units or separate accounts for separate businesses in order to prohibit subsidies between separate businesses;
 - (g) specifying performance standards, targets and criteria;
 - (h) specifying connection or retailing obligations to enable reasonable demands for electricity to be met;

- (i) specifying information reporting requirements relating to the source of electricity and emissions caused by the generation of electricity;
- (j) requiring the licensee to expand or reinforce its transmission or distribution system in accordance with market rules in such a manner as the IESO or the Board may determine;
- (k) requiring the licensee to enter into an agreement with the IESO that gives the IESO the authority to direct operations of the licensee's transmission system;
- (l) REPEALED: 2016, c. 10, Sched. 2, s. 15.
- (m) requiring licensees, where a directive has been issued under section 28.2, to implement such steps or such processes as the Board or the directive requires in order to address risks or liabilities associated with customer billing and payment cycles in respect of the cost of electricity at the retail and at the wholesale levels and risks or liabilities associated with non-payment or default by a consumer or retailer. 1998, c. 15, Sched. B, s. 70 (2); 2003, c. 3, s. 47 (1); 2004, c. 23, Sched. B, s. 11 (1-3); 2010, c. 8, s. 38 (10, 11); 2016, c. 10, Sched. 2, s. 15; 2017, c. 1, s. 2 (1).

Deemed conditions of licences, transmitters and distributors

(2.1) Every licence issued to a transmitter or distributor shall be deemed to contain the following conditions:

1. The licensee is required to provide, in accordance with such rules as may be prescribed by regulation and in the manner mandated by the market rules or by the Board, priority connection access to its transmission system or distribution system for renewable energy generation facilities that meet the requirements prescribed by regulation made under subsection 26 (1.1) of the *Electricity Act*, 1998.
2. The licensee is required to prepare plans, in the manner and at the times mandated by the Board or as prescribed by regulation and to file them with the Board for approval for,
 - i. the expansion or reinforcement of the licensee's transmission system or distribution system to accommodate the connection of renewable energy generation facilities, and
 - ii. the development and implementation of the smart grid in relation to the licensee's transmission system or distribution system.
3. The licensee is required, in accordance with a plan referred to in paragraph 2 that has been approved by the Board or in such other manner and at such other times as mandated by the Board or prescribed by regulation,
 - i. to expand or reinforce its transmission system or distribution system to accommodate the connection of renewable energy generation facilities, and
 - ii. to make investments for the development and implementation of the smart grid in relation to the licensee's transmission system or distribution system. 2009, c. 12, Sched. D, s. 10.

Deemed condition of licences, unit sub-meter provider, *Ontario Clean Energy Benefit Act*, 2010

(2.2) Every licence issued to a unit sub-meter provider is deemed to contain the condition that the unit sub-meter provider is required to comply with the *Ontario Clean Energy Benefit Act*, 2010 and the regulations made under it. 2010, c. 26, Sched. 13, s. 17 (2).

Deemed condition of licences, unit sub-meter provider, *Ontario Rebate for Electricity Consumers Act*, 2016

(2.3) Every licence issued to a unit sub-meter provider is deemed to contain the condition that the unit sub-meter provider is required to comply with the *Ontario Rebate for Electricity Consumers Act*, 2016 and the regulations made under it. 2016, c. 19, s. 17 (2).

Where no agreement

(3) If the parties to an agreement under clause (2) (k) cannot agree on a proposed amendment to the agreement, the parties may jointly apply to the Board for a resolution of the matter. 1998, c. 15, Sched. B, s. 70 (3).

Market rules

(4) Every licence shall be deemed to contain a condition that the licensee comply with the market rules that apply to that licensee. 1998, c. 15, Sched. B, s. 70 (4).

Records in Ontario

(4.1) Every licence shall be deemed to contain a condition requiring the licensee to comply with any requirements set by the Board with respect to keeping certain records of the licensee in Ontario. 2015, c. 29, s. 12 (1).

Abuse of market power

(5) Without limiting the generality of subsection (1), a licence to engage in an activity described in clause 57 (c), (d) or (f) may contain conditions to address the abuse or possible abuse of market power, including conditions,

- (a) establishing minimum and maximum prices or a range of prices at which electricity may be offered for sale or sold through the IESO-administered markets or directly to another person or class of persons;
- (b) restricting the duration of contracts between licensees and any other person; and
- (c) restricting significant investment in or acquisition of generation facilities located in Ontario. 1998, c. 15, Sched. B, s. 70 (5); 2004, c. 23, Sched. B, s. 11 (4).

Non-exclusive

(6) Unless it provides otherwise, a licence under this Part shall not hinder or restrict the grant of a licence to another person within the same area and the licensee shall not claim any right of exclusivity. 1998, c. 15, Sched. B, s. 70 (6).

Distributors: connection of generation facilities

(6.1) The licence issued to a distributor shall contain conditions governing the connection of generation facilities to the distribution system, including the maximum cumulative generating capacity from generators to whom the regulations made under clause 88 (1) (g.1) apply that the distributor must allow to be connected to the distribution system. 2002, c. 23, s. 4 (8).

Requirement to provide information

(7) Every licence, other than a licence issued to the IESO, is deemed to contain a condition that the licensee is required to provide such reasonable information to the IESO as the IESO may require, in the manner and form specified by the IESO. 2014, c. 7, Sched. 23, s. 5.

Conflict with *Electricity Act, 1998*

(8) In the event of a conflict between a licence condition referred to in sub-subclause (2) (d) (ii.1) (A) and anything in section 31 of the *Electricity Act, 1998*, the licence condition prevails. 2017, c. 1, s. 2 (2).

Affiliates

- (9) The licence of a distributor shall specify whether the distributor will comply with section 29 of the *Electricity Act, 1998*,
- (a) directly;
 - (b) through an affiliate;
 - (c) through another person with whom the distributor or an affiliate of the distributor has a contract; or
 - (d) through a combination of methods described in clauses (a), (b) and (c), as specified. 1998, c. 15, Sched. B, s. 70 (9); 2002, c. 1, Sched. B, s. 7.

Exception

(10) Despite clause (9) (a) and any licence, a distributor shall not comply with section 29 of the *Electricity Act, 1998* directly after the date prescribed by regulation. 1998, c. 15, Sched. B, s. 70 (10).

Service area of distributor

(11) The licence of a distributor shall specify the area in which the distributor is authorized to distribute electricity. 1998, c. 15, Sched. B, s. 70 (11).

Non-discriminatory access

(12) If a transmitter or distributor is exempt from the requirement to provide non-discriminatory access to its transmission or distribution system in Ontario by regulation made under the *Electricity Act, 1998*, a licence under this Part shall not include a condition requiring the provision of non-discriminatory access unless the licensee has consented to the condition. 1998, c. 15, Sched. B, s. 70 (12).

Limitation

(13) A licence under this Part shall not require a person to dispose of assets or to undertake a significant corporate reorganization. 1998, c. 15, Sched. B, s. 70 (13).

Exclusion

(14) Despite subsection (13), a licence under this Part may require a distributor to establish an affiliate through which it shall comply with subsection (9). 1998, c. 15, Sched. B, s. 70 (14); 2015, c. 29, s. 12 (2).

Scope

(15) This section applies to the exercise of any power under this Act or the *Electricity Act, 1998* in relation to a licence referred to in section 57. 1998, c. 15, Sched. B, s. 70 (15).

Section Amendments with date in force (d/m/y)

2002, c. 1, Sched. B, s. 7 - 27/06/2002; 2002, c. 23, s. 4 (8) - 30/11/2003

2003, c. 3, s. 47 (1, 2) - 01/08/2003

2004, c. 23, Sched. B, s. 11 (1, 2, 4, 5) - 01/01/2005; 2004, c. 23, Sched. B, s. 11 (3) - 20/12/2004

2009, c. 12, Sched. D, s. 10 - 09/09/2009

2010, c. 8, s. 38 (10, 11) - 01/01/2011; 2010, c. 26, Sched. 13, s. 17 (2) - 01/01/2011

2014, c. 7, Sched. 23, s. 5 - 01/01/2015

2015, c. 29, s. 12 (1, 2) - 04/03/2016

2016, c. 10, Sched. 2, s. 15 - 01/07/2016; 2016, c. 19, s. 17 (2) - 01/01/2017

2017, c. 1, s. 2 - 22/02/2017

Codes that may be incorporated as licence conditions

70.1 (1) The Board may issue codes that, with such modifications or exemptions as may be specified by the Board under section 70, may be incorporated by reference as conditions of a licence under that section. 2003, c. 3, s. 48.

Quorum

(2) For the purposes of this section and section 70.2, two members of the Board constitute a quorum. 2003, c. 3, s. 48.

Approval, etc., of Board

(3) A code issued under this section may provide that an approval, consent or determination of the Board is required, with or without a hearing, for any of the matters provided for in the code. 2003, c. 3, s. 48.

Incorporation of standards, etc.

(4) A code issued under this section may incorporate by reference, in whole or in part, any standard, procedure or guideline. 2003, c. 3, s. 48.

Scope

(5) A code may be general or particular in its application and may be limited as to time or place or both. 2003, c. 3, s. 48.

Legislation Act, 2006, Part III

(6) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a code issued under this section. 2003, c. 3, s. 48; 2006, c. 21, Sched. F, s. 136 (1).

Transition

(7) The following documents issued by the Board, as they read immediately before this section came into force, shall be deemed to be codes issued under this section and the Board may change or amend the codes in accordance with this section and sections 70.2 and 70.3:

1. The Affiliate Relationships Code for Electricity Transmitters and Distributors.
2. The Distribution System Code.
3. The Electricity Retailer Code of Conduct.
4. The Retail Settlement Code.
5. The Transmission System Code.
6. Such other documents as are prescribed by the regulations. 2003, c. 3, s. 48.

Section Amendments with date in force (d/m/y)

2003, c. 3, s. 48 - 01/08/2003

2006, c. 21, Sched. F, s. 136 (1) - 25/07/2007

Proposed codes, notice and comment

70.2 (1) The Board shall ensure that notice of every code that it proposes to issue under section 70.1 is given in such manner and to such persons as the Board may determine. 2003, c. 3, s. 48.

Content of notice

- (2) The notice must include,
- (a) the proposed code or a summary of the proposed code;
 - (b) a concise statement of the purpose of the proposed code;
 - (c) an invitation to make written representations with respect to the proposed code;
 - (d) the time limit for making written representations;
 - (e) if a summary is provided, information about how the entire text of the proposed code may be obtained; and
 - (f) a description of the anticipated costs and benefits of the proposed code. 2003, c. 3, s. 48.

Opportunity for comment

(3) On giving notice under subsection (1), the Board shall give a reasonable opportunity to interested persons to make written representations with respect to the proposed code within such reasonable period as the Board considers appropriate. 2003, c. 3, s. 48.

Exceptions to notice requirement

(4) Notice under subsection (1) is not required if what is proposed is an amendment that does not materially change an existing code. 2003, c. 3, s. 48.

Notice of changes

(5) If, after considering the submissions, the Board proposes material changes to the proposed code, the Board shall ensure notice of the proposed changes is given in such manner and to such persons as the Board may determine. 2003, c. 3, s. 48.

Content of notice

- (6) The notice must include,
- (a) the proposed code with the changes incorporated or a summary of the proposed changes;
 - (b) a concise statement of the purpose of the changes;
 - (c) an invitation to make written representations with respect to the proposed code;
 - (d) the time limit for making written representations;
 - (e) if a summary is provided, information about how the entire text of the proposed code may be obtained; and
 - (f) a description of the anticipated costs and benefits of the proposed code. 2003, c. 3, s. 48.

Representations re: changes

(7) On giving notice of changes, the Board shall give a reasonable opportunity to interested persons to make written representations with respect to the changes within such reasonable period as the Board considers appropriate. 2003, c. 3, s. 48.

Issuing the code

(8) If notice under this section is required, the Board may issue the code only at the end of this process and after considering all representations made as a result of that process. 2003, c. 3, s. 48.

Public inspection

(9) The Board must make the proposed code and the written representations made under this section available for public inspection during normal business hours at the offices of the Board. 2003, c. 3, s. 48.

Amendment of code

(10) In this section, a code includes an amendment to a code and a revocation of a code. 2003, c. 3, s. 48.

Section Amendments with date in force (d/m/y)

2003, c. 3, s. 48 - 01/08/2003

