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This Act is current to September 28, 2022

See the Tables of Legislative Changes for this Act's legislative history, including any changes not in force.

UTILITIES COMMISSION ACT
[RSBC 1996] CHAPTER 473

Definitions

1 (1) In this Act:

"appraisal" means appraisal by the commission;

"authority" means the British Columbia Hydro and Power Authority;

"British Columbia's energy objectives" has the same meaning as in section 1 (1) of the *Clean Energy Act*;

"commission" means the British Columbia Utilities Commission continued under this Act;

"compensation" means a rate, remuneration, gain or reward of any kind paid, payable, promised, demanded, received or expected, directly or indirectly, and includes a promise or undertaking by a public utility to provide service as consideration for, or as part of, a proposal or contract to dispose of land or any interest in it;

"costs" includes fees, counsel fees and expenses;

"demand-side measure" has the same meaning as in section 1 (1) of the *Clean Energy Act*;

"distribution equipment" means posts, pipes, wires, transmission mains, distribution mains and other apparatus of a public utility used to supply service to the utility customers;

"expenses" includes expenses of the commission;

"petroleum industry" includes the carrying on within British Columbia of any of the following industries or businesses:

- (a) the distillation, refining or blending of petroleum;
- (b) the manufacture, refining, preparation or blending of products obtained from petroleum;
- (c) the storage of petroleum or petroleum products;
- (d) the wholesale or retail distribution or sale of petroleum products;
- (e) the wholesale or retail distribution or sale of liquefied or compressed natural gas;

"petroleum products" includes gasoline, naphtha, benzene, kerosene, lubricating oils, stove oil, fuel oil, furnace oil, paraffin, aviation fuels, liquid butane, liquid propane and other liquefied petroleum gas and all derivatives of petroleum and all products obtained from petroleum, whether or not blended with or added to other things;

"public hearing" means a hearing of which public notice is given, which is open to the public, and at which any person whom the commission determines to have an interest in the matter may be heard;

"public utility" means a person, or the person's lessee, trustee, receiver or liquidator, who owns or operates in British Columbia, equipment or facilities for

- (a) the production, generation, storage, transmission, sale, delivery or provision of electricity, natural gas, steam or any other agent for the production of light, heat, cold or power to or for the public or a corporation for compensation, or
- (b) the conveyance or transmission of information, messages or communications by guided or unguided electromagnetic waves, including systems of cable, microwave, optical fibre or radiocommunications if that service is offered to the public for compensation,

but does not include

- (c) a municipality or regional district in respect of services provided by the municipality or regional district within its own boundaries,
- (d) a person not otherwise a public utility who provides the service or commodity only to the person or the person's employees or tenants, if the service or commodity is not resold to or used by others,

- (e) a person not otherwise a public utility who is engaged in the petroleum industry or in the wellhead production of oil, natural gas or other natural petroleum substances,
- (f) a person not otherwise a public utility who is engaged in the production of a geothermal resource, as defined in the *Geothermal Resources Act*, or
- (g) a person, other than the authority, who enters into or is created by, under or in furtherance of an agreement designated under section 12 (9) of the *Hydro and Power Authority Act*, in respect of anything done, owned or operated under or in relation to that agreement;

"rate" includes

- (a) a general, individual or joint rate, fare, toll, charge, rental or other compensation of a public utility,
- (b) a rule, practice, measurement, classification or contract of a public utility or corporation relating to a rate, and
- (c) a schedule or tariff respecting a rate;

"service" includes

- (a) the use and accommodation provided by a public utility,
- (b) a product or commodity provided by a public utility, and
- (c) the plant, equipment, apparatus, appliances, property and facilities employed by or in connection with a public utility in providing service or a product or commodity for the purposes in which the public utility is engaged and for the use and accommodation of the public;

"tenant" does not include a lessee for a term of more than 5 years;

"value" or **"appraised value"** means the value determined by the commission.

(2) This Act does not apply to Powerex Corp.

Part 1 — Utilities Commission

Commission continued

- 2** (1) The British Columbia Utilities Commission is continued consisting of individuals appointed as follows by the Lieutenant Governor in Council after a merit-based process:
- (a) one commissioner designated as the chair;
 - (b) other commissioners appointed after consultation with the chair.

commission.

Long-term resource and conservation planning

44.1 (1) [Repealed 2010-22-65.]

- (2) Subject to subsection (2.1), a public utility must file with the commission, in the form and at the times the commission requires, a long-term resource plan including all of the following:
- (a) an estimate of the demand for energy the public utility would expect to serve if the public utility does not take new demand-side measures during the period addressed by the plan;
 - (b) a plan of how the public utility intends to reduce the demand referred to in paragraph (a) by taking cost-effective demand-side measures;
 - (c) an estimate of the demand for energy that the public utility expects to serve after it has taken cost-effective demand-side measures;
 - (d) a description of the facilities that the public utility intends to construct or extend in order to serve the estimated demand referred to in paragraph (c);
 - (e) information regarding the energy purchases from other persons that the public utility intends to make in order to serve the estimated demand referred to in paragraph (c);
 - (f) an explanation of why the demand for energy to be served by the facilities referred to in paragraph (d) and the purchases referred to in paragraph (e) are not planned to be replaced by demand-side measures;
 - (g) any other information required by the commission.
- (2.1) The authority need not file a long-term resource plan before February 28, 2021.
- (3) The commission may exempt a public utility from the requirement to include in a long-term resource plan filed under subsection (2) any of the information referred to in paragraphs (a) to (f) of that subsection if the commission is satisfied that the information is not applicable with respect to the nature of the service provided by the public utility.
- (4) [Repealed 2010-22-65.]
- (5) The commission may establish a process to review long-term resource plans filed under subsection (2).
- (6) After reviewing a long-term resource plan filed under subsection (2), the commission must
- (a) accept the plan, if the commission determines that carrying out the plan would be in the public interest, or
 - (b) reject the plan.

- (7) The commission may accept or reject, under subsection (6), a part of a public utility's plan, and, if the commission rejects a part of a plan,
- (a) the public utility may resubmit the part within a time specified by the commission, and
 - (b) the commission may accept or reject, under subsection (6), the part resubmitted under paragraph (a) of this subsection.
- (8) In determining under subsection (6) whether to accept a long-term resource plan, the commission must consider
- (a) the applicability of British Columbia's energy objectives,
 - (b) the extent to which the plan is consistent with the applicable requirements under sections 6 and 19 of the *Clean Energy Act*,
 - (c) whether the plan shows that the public utility intends to pursue adequate, cost-effective demand-side measures, and
 - (d) the interests of persons in British Columbia who receive or may receive service from the public utility.
- (9) In accepting under subsection (6) a long-term resource plan, or part of a plan, the commission may do one or both of the following:
- (a) order that a proposed utility plant or system, or extension of either, referred to in the accepted plan or the part is exempt from the operation of section 45 (1);
 - (b) order that, despite section 75, a matter the commission considers to be adequately addressed in the accepted plan or the part is to be considered as conclusively determined for the purposes of any hearing or proceeding to be conducted by the commission under this Act, other than a hearing or proceeding for the purposes of section 99.

Expenditure schedule

- 44.2** (1) A public utility may file with the commission an expenditure schedule containing one or more of the following:
- (a) a statement of the expenditures on demand-side measures the public utility has made or anticipates making during the period addressed by the schedule;
 - (b) a statement of capital expenditures the public utility has made or anticipates making during the period addressed by the schedule;
 - (c) a statement of expenditures the public utility has made or anticipates making during the period addressed by the schedule to acquire energy from other persons.
- (2) The commission may not consent under section 61 (2) to an amendment to or a rescission of a schedule filed under section 61 (1) to the extent that the amendment or the rescission is for the

purpose of recovering expenditures referred to in subsection (1) (a) of this section, unless

(a) the expenditure is the subject of a schedule filed and accepted under this section,
or

(b) the amendment or rescission is for the purpose of setting an interim rate.

(3) After reviewing an expenditure schedule submitted under subsection (1), the commission, subject to subsections (5), (5.1) and (6), must

(a) accept the schedule, if the commission considers that making the expenditures referred to in the schedule would be in the public interest, or

(b) reject the schedule.

(4) The commission may accept or reject, under subsection (3), a part of a schedule.

(5) In considering whether to accept an expenditure schedule filed by a public utility other than the authority, the commission must consider

(a) the applicable of British Columbia's energy objectives,

(b) the most recent long-term resource plan filed by the public utility under section 44.1, if any,

(c) the extent to which the schedule is consistent with the applicable requirements under sections 6 and 19 of the *Clean Energy Act*,

(d) if the schedule includes expenditures on demand-side measures, whether the demand-side measures are cost-effective within the meaning prescribed by regulation, if any, and

(e) the interests of persons in British Columbia who receive or may receive service from the public utility.

(5.1) In considering whether to accept an expenditure schedule filed by the authority, the commission, in addition to considering the interests of persons in British Columbia who receive or may receive service from the authority, must consider

(a) British Columbia's energy objectives,

(b) the most recent of the following documents:

(i) an integrated resource plan approved under section 4 of the *Clean Energy Act* before the repeal of that section;

(ii) a long-term resource plan filed by the authority under section 44.1 of this Act,

(c) the extent to which the schedule is consistent with the requirements under section 19 of the *Clean Energy Act*, and

- (d) if the schedule includes expenditures on demand-side measures, the extent to which the demand-side measures are cost-effective within the meaning prescribed by regulation, if any.
- (6) If the commission considers that an expenditure in an expenditure schedule was determined to be in the public interest in the course of determining that a long-term resource plan was in the public interest under section 44.1 (6),
 - (a) subsection (5) of this section does not apply with respect to that expenditure, and
 - (b) the commission must accept under subsection (3) the expenditure in the expenditure schedule.

Certificate of public convenience and necessity

- 45** (1) Except as otherwise provided, after September 11, 1980, a person must not begin the construction or operation of a public utility plant or system, or an extension of either, without first obtaining from the commission a certificate that public convenience and necessity require or will require the construction or operation.
- (2) For the purposes of subsection (1), a public utility that is operating a public utility plant or system on September 11, 1980 is deemed to have received a certificate of public convenience and necessity, authorizing it
- (a) to operate the plant or system, and
 - (b) subject to subsection (5), to construct and operate extensions to the plant or system.
- (3) Nothing in subsection (2) authorizes the construction or operation of an extension that is a reviewable project under the *Environmental Assessment Act*.
- (4) The commission may, by regulation, exclude a utility plant or categories of utility plants from the operation of subsection (1).
- (5) If it appears to the commission that a public utility should, before constructing or operating an extension to a utility plant or system, apply for a separate certificate of public convenience and necessity, the commission may, not later than 30 days after construction of the extension is begun, order that subsection (2) does not apply in respect of the construction or operation of the extension.
- (6) A public utility must file with the commission at least once each year a statement in a form prescribed by the commission of the extensions to its facilities that it plans to construct.

(6.1) and (6.2) [Repealed 2008-13-8.]

- (7) Except as otherwise provided, a privilege, concession or franchise granted to a public utility by a municipality or other public authority after September 11, 1980 is not valid unless approved by the commission.

- 125** (1) The Lieutenant Governor in Council may make regulations as referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may, for the purpose of recovering the expenses arising out of the administration of this Act in a fiscal year, make regulations as follows:
- (a) setting, or authorizing the commission to set, by order of the commission, and to collect fees, levies or other charges from
 - (i) public utilities, a class of public utility or a particular public utility, and
 - (ii) other persons to whom a provision of this Act applies or a class of those persons;
 - (b) setting, or authorizing the commission to set, the fees, levies or other charges payable by the members of the different classes referred to in paragraph (a) in different amounts;
 - (c) exempting, or authorizing the commission to exempt, a public utility or other person, or a class of either of them, from the payment of a fee, levy or other charge;
 - (d) authorizing the commission to retain all or part of any fees, levies or other charges collected by the commission under a regulation;
 - (e) requiring the commission to set a rate for the purposes of section 28 (2.1) and prescribing requirements for the purposes of that section.
- (2.1) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the imposition of administrative penalties, including, without limitation, prescribing
- (a) provisions for the purposes of section 109.2 (2),
 - (b) matters to be considered under section 109.2 (3) before imposing an administrative penalty,
 - (c) the criteria for determining appropriate administrative penalties, and
 - (d) different limits on different administrative penalties, including different limits for contraventions by different classes of persons.
- (3) The commission may make regulations on a matter for which it is empowered by this Act to make regulations.

Minister's regulations

- 125.1** (1) In this section, "**minister**" means the minister responsible for the administration of the *Hydro and Power Authority Act*.

(2) and (3) [Repealed 2010-22-72.]

(4) The minister may make regulations as follows:

(a) [Repealed 2010-22-72.]

(b) respecting exemptions under section 22;

(c) and (d) [Repealed 2010-22-72.]

(e) for the purposes of sections 44.1 and 44.2,

(i) prescribing rules for determining whether a demand-side measure, or a class of demand-side measures, is adequate, cost-effective or both,

(ii) declaring a demand-side measure, or a class of demand-side measures, to be cost effective and necessary for adequacy, and

(iii) prescribing rules or factors a public utility must use in making the estimate referred to in section 44.1 (2) (a);

(iv) [Repealed 2010-22-72.]

(f) [Repealed 2010-22-72.]

(g) prescribing factors and guidelines for the purposes of section 58 (2.1) (b), including, without limitation, factors and guidelines to encourage

(i) energy conservation or efficiency,

(ii) the use of energy during periods of lower demand,

(iii) the development and use of energy from clean or renewable resources, or

(iv) the reduction of the energy demand a public utility must serve;

(h) defining a term or phrase used in section 58.1 and not defined in this Act;

(i) identifying facts that must be used in interpreting the definition in section 58.1;

(j) to (n) [Repealed 2010-22-72.]

(o) prescribing standard-making bodies for the purposes of section 125.2 (1) and requirements and matters for the purposes of section 125.2 (3).

(p) [Repealed 2015-42-26.]

(5) In making a regulation under this section, the minister may

(a) make regulations of specific or general application, and

(b) make different regulations for different persons, places, things, measures, transactions or activities.

Adoption of reliability standards, rules or codes

125.2 (1) In this section: