

This Act is current to 30 November 2016.

This Act has "Not in Force" sections. See the [Table of Legislative Changes](#).

## **CLEAN ENERGY ACT**

[SBC 2010] CHAPTER 22

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Definitions

1 (1) In this Act:

"acquire", used in relation to the authority, means to enter into an energy supply contract;

"authority" has the same meaning as in section 1 of the Hydro and Power Authority Act;

"British Columbia's energy objectives" means the objectives set out in section 2;

"Burrard Thermal" means the gas-fired generation asset owned by the authority and located in Port Moody, British Columbia;

"clean or renewable resource" means biomass, biogas, geothermal heat, hydro, solar, ocean, wind or any other prescribed resource;

"demand-side measure" means a rate, measure, action or program undertaken

(a) to conserve energy or promote energy efficiency,

(b) to reduce the energy demand a public utility must serve, or

(c) to shift the use of energy to periods of lower demand,

but does not include

(d) a rate, measure, action or program the main purpose of which is to encourage a switch from the use of one kind of energy to another such that the switch would increase greenhouse gas emissions in British Columbia, or

(e) any rate, measure, action or program prescribed;

"electricity self-sufficiency" means electricity self-sufficiency as described in section 6 (2);

"expenditure for export" means the amount of an expenditure for the construction or extension of a plant or system or for an acquisition of electricity that is in addition to the amount the authority would have had to spend

(a) to achieve electricity self-sufficiency, and

(b) to undertake anything referred to in section 7 (1), except to the extent the expenditure is accounted for in paragraph (a);

"feed-in tariff program" means a program, that may be established under section 16, under which the authority offers to enter into energy supply contracts with persons generating electricity from clean or renewable resources using prescribed technologies in prescribed regions of British Columbia;

"greenhouse gas" has the same meaning as in section 1 of the Greenhouse Gas Reduction Targets Act;

"heritage assets" means

(a) any equipment or facilities for the transmission or distribution of electricity in respect of which, on the date on which this Act receives First Reading in the Legislative Assembly, a certificate of public convenience and necessity has been granted, or has been deemed to have been granted, to the authority or the transmission corporation under the Utilities Commission Act,

(b) the authority's interests in the generation and storage assets identified in Schedule 1 of this Act, and

(c) the authority's interests in the equipment and facilities that are for the transmission or distribution of electricity and that are identified in Schedule 1 of this Act;

"integrated resource plan" means an integrated resource plan required to be submitted under section 3;

"transmission corporation" means British Columbia Transmission Corporation.

(2) Words and expressions used but not defined in this Act or the regulations, unless the context otherwise requires, have the same meanings as in the Utilities Commission Act.

#### Part 1 — British Columbia's Energy Objectives

##### British Columbia's energy objectives

2 The following comprise British Columbia's energy objectives:

(a) to achieve electricity self-sufficiency;

(b) to take demand-side measures and to conserve energy, including the objective of the authority reducing its expected increase in demand for electricity by the year 2020 by at least 66%;

(c) to generate at least 93% of the electricity in British Columbia from clean or renewable resources and to build the infrastructure necessary to transmit that electricity;

(d) to use and foster the development in British Columbia of innovative technologies that support energy conservation and efficiency and the use of clean or renewable resources;

(e) to ensure the authority's ratepayers receive the benefits of the heritage assets and to ensure the benefits of the heritage contract under the BC Hydro Public Power Legacy and Heritage Contract Act continue to accrue to the authority's ratepayers;

(f) to ensure the authority's rates remain among the most competitive of rates charged by public utilities in North America;

(g) to reduce BC greenhouse gas emissions

- (i) by 2012 and for each subsequent calendar year to at least 6% less than the level of those emissions in 2007,
- (ii) by 2016 and for each subsequent calendar year to at least 18% less than the level of those emissions in 2007,
- (iii) by 2020 and for each subsequent calendar year to at least 33% less than the level of those emissions in 2007,
- (iv) by 2050 and for each subsequent calendar year to at least 80% less than the level of those emissions in 2007, and
- (v) by such other amounts as determined under the Greenhouse Gas Reduction Targets Act;
- (h) to encourage the switching from one kind of energy source or use to another that decreases greenhouse gas emissions in British Columbia;
- (i) to encourage communities to reduce greenhouse gas emissions and use energy efficiently;
- (j) to reduce waste by encouraging the use of waste heat, biogas and biomass;
- (k) to encourage economic development and the creation and retention of jobs;
- (l) to foster the development of first nation and rural communities through the use and development of clean or renewable resources;
- (m) to maximize the value, including the incremental value of the resources being clean or renewable resources, of British Columbia's generation and transmission assets for the benefit of British Columbia;
- (n) to be a net exporter of electricity from clean or renewable resources with the intention of benefiting all British Columbians and reducing greenhouse gas emissions in regions in which British Columbia trades electricity while protecting the interests of persons who receive or may receive service in British Columbia;
- (o) to achieve British Columbia's energy objectives without the use of nuclear power;
- (p) to ensure the commission, under the Utilities Commission Act, continues to regulate the authority with respect to domestic rates but not with respect to expenditures for export, except as provided by this Act.

#### Integrated resource plans

3 (1) The authority must submit to the minister, in accordance with subsection (6), an integrated resource plan that is consistent with good utility practice and that includes all of the following:

- (a) a description of the authority's forecasts, over a defined period, of its energy and capacity requirements to achieve electricity self-sufficiency;

(b) a description of what the authority plans to do to achieve electricity self-sufficiency and to respond to British Columbia's other energy objectives, including plans respecting

(i) the implementation of demand-side measures,

(ii) the construction or extension of facilities,

(iii) the acquisition of electricity from other persons, and

(iv) the use of rates, including rates to encourage

(A) energy conservation or efficiency,

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

(C) the reduction of the energy demand the authority must serve, or

(D) the development and use of electricity from clean or renewable resources;

(c) a description of the consultations carried out by the authority respecting the development of the integrated resource plan;

(d) a description of

(i) the expected export demand during a defined period,

(ii) the potential for British Columbia to meet that demand,

(iii) the actions the authority has taken to seek suitable opportunities for the export of electricity from clean or renewable resources, and

(iv) the extent to which the authority has arranged for contracts for the export of electricity and the transmission or other services necessary to facilitate those exports;

(e) if the authority plans to make an expenditure for export, a specification of the amount of the expenditure and a rationale for making it.

(2) In the first integrated resource plan the authority submits to the minister, and in any other integrated resource plan the minister by order specifies, the authority must include a description of the authority's infrastructure and capacity needs for electricity transmission for the period ending 30 years after the date the integrated resource plan is submitted.

(3) The description referred to in subsection (2) must include an assessment of the potential for developing, during the period referred to in subsection (2), grouped by geographic area, electricity generation from clean or renewable resources in British Columbia.

(4) The authority must carry out any consultations required by a regulation under section 35 (g) and submit a report to the minister, within the time prescribed, respecting those consultations.

(5) The authority must plan to rely on no energy and no capacity from Burrard Thermal, except in the case of emergency or as authorized by regulation.

(6) An integrated resource plan must be submitted

(a) within 38 months from the date this Part comes into force, and

(b) once every 5 years after the submission under paragraph (a), unless a submission date is prescribed for the purposes of this subsection, in which case an integrated resource plan must be submitted by the prescribed submission date.

(7) The authority may submit an amendment to an integrated resource plan approved under section 4, and section 4 applies to the submission.

(8) If the Lieutenant Governor in Council approves an amendment submitted under subsection (7), the approved amendment is to be considered a part of the approved integrated resource plan.

#### Approval and procurement

4 (1) After the minister receives an integrated resource plan, the Lieutenant Governor in Council, for the purposes of sections 44.2 (5.1), 46 (3.3) and 71 (2.21) and (2.51) of the Utilities Commission Act, may, by order,

(a) approve or reject the plan, and

(b) if the Lieutenant Governor in Council is satisfied that it is in the interests of British Columbians to pursue opportunities for export, require the authority, its subsidiaries or both to do the following:

(i) begin a process or processes by the time specified in the order to acquire the specified amount per year of energy and capacity from clean or renewable resources;

(ii) acquire the energy and capacity referred to in subparagraph (i) within the time specified in the order;

(iii) secure the necessary transmission capacity;

(iv) submit, for the purposes of subsection (2), a report to the minister respecting the expenditures for export resulting from compliance with subparagraphs (i) to (iii).

(2) In an order under subsection (1) (b) of this section, the Lieutenant Governor in Council may exempt the authority from sections 45 to 47 of the Utilities Commission Act with respect to anything to be done under subsection (1) (b) (iii) of this section.

(3) The authority and its subsidiaries and persons and their successors and assigns who enter into an energy supply contract as a result of a process referred to in subsection (1) (b) (i) of this section are exempt from section 71 of the Utilities Commission Act with respect to the energy supply contract.

(4) The Lieutenant Governor in Council, for the purposes of subsection (5) (a), may approve a report submitted under subsection (1) (b) (iv).

(5) In setting rates for the authority, the commission must ensure that the rates do not allow the authority to recover



(a) its expenditures for export as set out in a report approved by the Lieutenant Governor in Council under subsection (4), and

(b) any other expenditures for export.

#### Status report

5 (1) The authority must submit to the minister, by the time the minister requires, a status report respecting the authority's most recently approved integrated resource plan.

(2) The minister must make public a status report submitted under subsection (1) in the same manner and at the same time that the minister makes public a service plan under the Budget Transparency and Accountability Act.

#### Electricity self-sufficiency

6 (1) In this section:

"electricity supply obligations" means

(a) electricity supply obligations for which rates are filed with the commission under section 61 of the Utilities Commission Act, and

(b) any other electricity supply obligations that exist at the time this section comes into force, determined by using the authority's prescribed forecasts of its energy requirements and peak load, taking into account demand-side measures, that are in an integrated resource plan approved under section 4;

"heritage energy capability" means the maximum amount of annual energy that the heritage assets that are hydroelectric facilities can produce under prescribed water conditions.

(2) The authority must achieve electricity self-sufficiency by holding, by the year 2016 and each year after that, the rights to an amount of electricity that meets the electricity supply obligations solely from electricity generating facilities within the Province,

(a) assuming no more in each year than the heritage energy capability, and

(b) relying on Burrard Thermal for no energy and no capacity, except as authorized by regulation.

(3) The authority must remain capable of meeting its electricity supply obligations from the electricity referred to in subsection (2), except to the extent the authority may be permitted, by

regulation, to enter into contracts in the prescribed circumstances and on the prescribed terms and conditions.

(4) A public utility, in planning in accordance with section 44.1 of the Utilities Commission Act for

(a) the construction or extension of generation facilities, and

(b) energy purchases,

must consider British Columbia's energy objective to achieve electricity self-sufficiency.

Exempt projects, programs, contracts and expenditures

7 (1) The authority is exempt from sections 45 to 47 and 71 of the Utilities Commission Act to the extent applicable, and from any other sections of that Act that the minister may specify by regulation, with respect to the following projects, programs, contracts and expenditures of the authority, as they may be further described by regulation:

(a) the Northwest Transmission Line, a 287 kilovolt transmission line between the Skeena substation and Bob Quinn Lake, and related facilities and contracts;

(b) Mica Units 5 and 6, a project to install two additional turbines and related works and equipment at Mica;

(c) Revelstoke Unit 6, a project to install an additional turbine and related works and equipment at Revelstoke;

(d) Site C, a project to build a third dam on the Peace River in northeast British Columbia to provide approximately

(i) 4 600 gigawatt hours of energy each year, and

(ii) 900 megawatts of capacity;

(e) a bio-energy phase 2 call to acquire up to 1 000 gigawatt hours per year of electricity;

(f) one or more agreements with pulp and paper customers eligible for funding under Canada's Green Transformation Program under which agreement or agreements the authority acquires, in aggregate, up to 1 200 gigawatt hours per year of electricity;

(g) the clean power call request for proposals, issued on June 11, 2008, to acquire up to 5 000 gigawatt hours per year of electricity from clean or renewable resources;

(h) the standing offer program described in section 15;

(i) the feed-in tariff program described in section 16;

(j) the actions taken to comply with section 17 (2) and (3);

(k) the program described in section 17 (4).

(2) The persons and their successors and assigns who enter into an energy supply contract with the authority related to anything referred to in subsection (1) are exempt from section 71 of the Utilities Commission Act with respect to the energy supply contract.

(3) The commission must not exercise a power under the Utilities Commission Act in a way that would directly or indirectly prevent the authority from doing anything referred to in subsection (1).

#### Rates

8 (1) In setting rates under the Utilities Commission Act for the authority, the commission must ensure that the rates allow the authority to collect sufficient revenue in each fiscal year to enable it to recover its costs incurred with respect to

(a) the achievement of electricity self-sufficiency, and

(b) a project, program, contract or expenditure referred to in section 7 (1), except

(i) to the extent the expenditure is accounted for in paragraph (a), and

(ii) for costs, prescribed for the purposes of this section, respecting the feed-in tariff program.

(2) Subject to subsection (1) of this section, the commission must set under the Utilities Commission Act a rate proposed by the authority with respect to the project referred to in section 7 (1) (a) of this Act.

(3) The commission must not, except on application by the authority, cancel, suspend or amend a rate set in accordance with subsection (2).

(4) The authority must provide to the minister, in accordance with the regulations, an annual report comparing the electricity rates charged by the authority with electricity rates charged by public utilities in other jurisdictions in North America, including an assessment of the extent to which the authority's electricity rates continue to be competitive with those other rates.

#### Domestic long-term sales contracts

9 The authority must establish, in accordance with the regulations, a program to develop potential offers respecting domestic long-term sales contracts for availability to prescribed classes of customers on prescribed terms, including terms respecting price, for prescribed volumes of energy over prescribed periods.

#### Part 2 — Prohibitions

#### Two-rivers system development

10 In this Part:

"approval" includes a certificate, licence, permit or other authorization;

"prohibited projects" means

(a) a project of the authority, referred to in Schedule 2 of this Act, for electricity generation on a stream, and

(b) a project for electricity generation on a stream with a storage capability in excess of a prescribed storage capability,

but does not include the two-rivers projects;

"stream" has the same meaning as in section 1 (1) of the Water Sustainability Act;

"two-rivers projects" means

(a) the authority's facilities, on the Peace River and the Columbia River System, existing on the date this section comes into force and upgrades or extensions to those facilities, and

(b) the project commonly known as Site C.

Project prohibitions

11 (1) Despite any other enactment, a minister, or an employee or agent of the government or of a municipality or regional district, must not issue an approval under an applicable enactment for a person to

(a) undertake a prohibited project, or

(b) construct all or part of the facilities of a prohibited project.

(2) Despite any other enactment, an approval under another enactment is without effect if it is issued contrary to subsection (1).

Prohibited acquisitions

12 (1) In this section:

"facility" means a facility for the generation of electricity and any transmission or distribution equipment to deliver that electricity to the point of interconnection with the authority's integrated service area;

"protected area" means

- (a) a park, recreation area, or conservancy, as defined in section 1 of the Park Act,
  - (b) an area established under the Environment and Land Use Act as a park or protected area, or
  - (c) an area established or continued as an ecological reserve under the Ecological Reserve Act or by the Protected Areas of British Columbia Act.
- (2) The authority must not make an offer to acquire electricity from a person whose proposed facility is to be located, in whole or in part, in a protected area, unless the location is permitted under the enactments referred to in the definition of "protected area" in subsection (1).
- (3) A person referred to in subsection (2) must not offer to sell electricity to the authority.

Burrard Thermal

13 The authority must not operate Burrard Thermal, except

- (a) in the case of emergency,
- (b) to provide transmission support services, or
- (c) as authorized by regulation.

Part 3 — Preserving Heritage Assets

Sale of heritage assets prohibited

14 (1) The authority must not sell or otherwise dispose of the heritage assets.

(2) Nothing in subsection (1) prevents the authority from disposing of heritage assets if the assets disposed of are no longer used or useful for their intended purpose, or they are to be replaced with one or more assets that will perform similar functions.

Part 4 — Standing Offer and Feed-in Tariff Programs

## Standing offer program

15 (1) In this section:

"eligible facility" means a generation facility that

(a) either

(i) has only one generator and the generator's nameplate capacity is less than or equal to the maximum nameplate capacity or has more than one generator and the total nameplate capacity of all of them is a capacity less than or equal to the maximum nameplate capacity, or

(ii) meets the prescribed requirements, and

(b) either

(i) is a high-efficiency cogeneration facility, or

(ii) generates energy by means of a prescribed technology or from clean or renewable resources,

but does not include a prescribed generation facility or class of generation facilities;

"maximum nameplate capacity" means 10 megawatts or, if another capacity is prescribed for the purposes of this section, the prescribed capacity.

(2) The authority must establish and, except in the prescribed circumstances, maintain a standing offer program to acquire electricity from eligible facilities.

(3) The authority may establish, in accordance with the prescribed requirements, if any, the criteria, terms and conditions on which offers under the standing offer program under subsection (2) are to be made.

## Feed-in tariff program

16 (1) To facilitate the achievement of one or more of British Columbia's energy objectives, the Lieutenant Governor in Council, by regulation, may require the authority to establish a feed-in tariff program.

(2) If the authority is required to establish a feed-in tariff program, the authority may establish, in accordance with the prescribed requirements, if any, the criteria, terms and conditions under which offers may be made under the feed-in tariff program.

(3) The authority may not enter into an energy supply contract as a result of an offer made under the feed-in tariff program if the energy supply contract, by itself or in aggregate with other energy supply contracts entered into under the feed-in tariff program, would result in an expenditure that exceeds the prescribed amount in the prescribed period.

(4) Without limiting section 34 (2) (c),

(a) requirements prescribed by the Lieutenant Governor in Council, and

(b) criteria, terms and conditions established by the authority

made for the purpose of subsection (2) may be made with respect to different regions, prices and technologies.

Part 5 — Energy Efficiency Measures and

Greenhouse Gas Reductions

Smart meters

17 (1) In this section:

"private dwelling" means

(a) a structure that is occupied as a private residence, or

(b) if only part of a structure is occupied as a private residence, that part of the structure;

"smart grid" means the prescribed equipment;

"smart meter" means a meter that meets the prescribed requirements, and includes related components, equipment and metering and communication infrastructure that meet the prescribed requirements.

(2) Subject to subsection (3), the authority must install and put into operation smart meters and related equipment in accordance with and to the extent required by the regulations.

(3) The authority must complete all obligations imposed under subsection (2) by the end of the 2012 calendar year.

(4) The authority must establish a program to install and put into operation a smart grid in accordance with and to the extent required by the regulations.

(5) The authority may, by itself, or by its engineers, surveyors, agents, contractors, subcontractors or employees, enter on any land, other than a private dwelling, without the consent of the owner, for a purpose relating to the use, maintenance, safeguarding, installation, replacement, repair, inspection, calibration or reading of its meters, including smart meters, or of its smart grid.

(6) If a public utility, other than the authority, makes an application under the Utilities Commission Act in relation to smart meters, other advanced meters or a smart grid, the commission, in considering the application, must consider the government's goal of having smart meters, other advanced meters and a smart grid in use with respect to customers other than those of the authority.

Improvement financing

17.1 (1) In this section:

"borrower" means an eligible person who receives financing under a financing agreement and includes a person to whom obligations are transferred as described in subsection (4) (a) or (6);

"eligible person" means a person who

(a) receives or will receive service in British Columbia from a prescribed public utility,

(b) has obtained an energy report from a qualified energy advisor, and

(c) meets the prescribed requirements, if any;

"energy report" means a report that

(a) is made and signed by a qualified energy advisor,

(b) evaluates the energy efficiency of a building, or a part of a building, owned or occupied by an eligible person,

(c) includes recommendations by the qualified energy advisor for improving the energy efficiency of the building, or the part of the building, referred to in paragraph (b), and

(d) meets the other prescribed requirements, if any;

"financing agreement" means an agreement entered into as a result of an offer made under the program;

"landlord" means a landlord as defined in



(a) the Residential Tenancy Act, and

(b) the Commercial Tenancy Act;

"program" means a program established under subsection (2);

"qualified energy advisor" means an energy advisor who meets the prescribed qualifications;

"qualified person" means a person who meets the prescribed qualifications;

"tenant" means a tenant as defined in

(a) the Residential Tenancy Act, and

(b) the Commercial Tenancy Act.

(2) A prescribed public utility must establish and maintain a program to offer financing to eligible persons for improving the energy efficiency of a building, or a part of a building, owned or occupied by a borrower.

(3) Subject to subsection (4), a prescribed public utility may establish, in accordance with the prescribed requirements, if any, the criteria, terms and conditions on which offers under the program are to be made.

(4) A financing agreement must include the following terms:

(a) a borrower may transfer the borrower's obligations under a financing agreement to another person who has applied for service from the prescribed public utility at the building, or the part of the building, that is the subject of the financing agreement;

(b) a borrower's obligations under the borrower's financing agreement are not discharged until

(i) the full amount payable under the financing agreement has been paid,

(ii) the borrower has provided to the prescribed public utility a notice, in a form prescribed by the minister, of a transfer referred to in paragraph (a) or subsection (6), or

(iii) the obligations have been transferred under subsection (6) (a) or (b);

(c) a borrower who is a tenant must,

(i) before entering into the financing agreement, obtain written consent from the tenant's landlord to enter into the financing agreement, and

(ii) before obtaining the consent referred to in subparagraph (i), notify the landlord of the operation of subsection (6);

(d) an improvement financed under the financing agreement must be

(i) an improvement that is

(A) recommended in the energy report respecting the building, or the part of the building, owned or occupied by the borrower, and

(B) in a class of prescribed improvements, and

(ii) carried out by a qualified person.

(5) Subject to subsections (4) (b) and (6), if a borrower transfers a financing agreement to a person referred to in subsection (4) (a), the borrower's obligations under the financing agreement are transferred to the person on the date that the person begins to receive service from the prescribed public utility.

(6) If a landlord either transfers obligations under a financing agreement to a tenant under subsection (4) (a) or grants to a borrower the written consent referred to in subsection (4) (c), certain of the borrower's obligations under the financing agreement are transferred as follows:

(a) obligations that become due on or after the date that the borrower's tenancy with the landlord ends are transferred from the borrower to the landlord on that date;

(b) subject to subsection (7), obligations that become due on or after the date that a person begins a subsequent tenancy with the landlord respecting the rental unit previously occupied by the borrower are transferred from the landlord to the person on that date.

(7) A landlord referred to in subsection (6) must provide notice, as prescribed, to prospective tenants of the rental unit referred to in that subsection advising those prospective tenants of the operation of subsection (6) (b).

(8) A prescribed public utility may not enter into a financing agreement if doing so would result in the prescribed public utility having an aggregate outstanding balance of all of its financing agreements that exceeds the prescribed amount in the prescribed period.

(9) In setting rates under the Utilities Commission Act for a prescribed public utility that has entered into a financing agreement, the commission must incorporate the financing agreement into those rates.

(10) A prescribed public utility has the same remedies in the event of a borrower's failure to pay an amount under a financing agreement that has been incorporated into its rates as it has for a borrower's failure to pay any other rates the borrower is obligated to pay as a customer of the public utility.

(11) Without limiting section 36 (1) (c),

(a) a requirement prescribed by the minister, and

(b) criteria, terms and conditions established by a prescribed public utility

made for the purposes of subsection (3) of this section may be made with respect to different regions and improvements and, in the case of a requirement prescribed by the minister, with respect to different prescribed public utilities.

#### Greenhouse gas reduction

18 (1) In this section, "prescribed undertaking" means a project, program, contract or expenditure that is in a class of projects, programs, contracts or expenditures prescribed for the purpose of reducing greenhouse gas emissions in British Columbia.

(2) In setting rates under the Utilities Commission Act for a public utility carrying out a prescribed undertaking, the commission must set rates that allow the public utility to collect sufficient revenue in each fiscal year to enable it to recover its costs incurred with respect to the prescribed undertaking.

(3) The commission must not exercise a power under the Utilities Commission Act in a way that would directly or indirectly prevent a public utility referred to in subsection (2) from carrying out a prescribed undertaking.

(4) A public utility referred to in subsection (2) must submit to the minister, on the minister's request, a report respecting the prescribed undertaking.

(5) A report to be submitted under subsection (4) must include the information the minister specifies and be submitted in the form and by the time the minister specifies.

#### Clean or renewable resources

19 (1) To facilitate the achievement of British Columbia's energy objective set out in section 2 (c), a person to whom this subsection applies

(a) must pursue actions to meet the prescribed targets in relation to clean or renewable resources, and

(b) must use the prescribed guidelines in planning for

(i) the construction or extension of generation facilities, and

(ii) energy purchases.

(2) Subsection (1) applies to

(a) the authority, and

(b) a prescribed public utility, if any, and a public utility in a class of prescribed public utilities, if any.

First Nations Clean Energy Business Fund

20 (1) In this section:

"first nation" means

(a) a band, as defined in the Indian Act (Canada), and

(b) an aboriginal governing body, however organized and established by aboriginal people;

"power project" means an electricity generation or transmission project

(a) that is in a class of projects prescribed for the purposes of this section, other than a project of any organization in the government reporting entity, as defined in the Budget Transparency and Accountability Act,

(b) for which a licence, if applicable,

(i) is issued after June 3, 2010 under the Water Sustainability Act or a predecessor of that Act for a power purpose, unless the licence is issued in substitution for a licence that was issued for a power purpose before that date,

(ii) is amended after June 3, 2010 under section 26 of the Water Sustainability Act or a predecessor of that section, whether or not a licence is issued in substitution for the licence, if

(A) the licence was issued for a power purpose, and

(B) the amendment authorizes a substantial change in works for the purpose of increasing power generation capacity, or

(iii) is amended after June 3, 2010 under section 26 of the Water Sustainability Act or a predecessor of that section, whether or not a licence is issued in substitution for the licence, if

(A) the licence was issued for a purpose other than a power purpose, and

(B) the amendment authorizes the use of water for a power purpose, and

(c) for which a prescribed authorization, if applicable, under an enactment respecting land is granted after this section comes into force;

"power purpose" has the same meaning as in section 2 of the Water Sustainability Act;

"special account" means the special account, as defined in section 1 of the Financial Administration Act, established under subsection (2) of this section.

(2) A special account, to be known as the First Nations Clean Energy Business Fund special account, is established.

(3) The initial balance of the special account is an amount, not to exceed \$5 million, prescribed by Treasury Board.

(4) The balance of the special account is increased by

(a) any other amount received by the government for payment into the account, and

(b) a prescribed percentage of the prescribed land and water revenues the government derives from power projects.

(5) Despite section 21 (3) of the Financial Administration Act, the minister, in accordance with a spending plan approved by Treasury Board, may pay an amount of money out of the special account for any of the following purposes:

(a) to share the revenues referred to in subsection (4) (b), up to a prescribed percentage of the revenue, under an agreement or agreements with one or more first nations;

(b) to facilitate the participation of first nations and aboriginal people in the clean energy sector;

(c) to pay the costs of administering the special account.

## Part 7 — Transmission Corporation

### Division 1 — Transfer of Property, Shares and Obligations

#### Definitions

21 In this Division:

"excluded contract" means a contract that was entered into, assumed by or assigned to the transmission corporation and that is governed by the law of a jurisdiction other than British Columbia;

"excluded permit" means a permit, approval, registration, authorization, licence, exemption, order or certificate issued, granted or provided to the transmission corporation under the law of a jurisdiction other than British Columbia;

"included contract" includes any contract entered into, assumed by or assigned to the transmission corporation, but does not include an excluded contract;

"included permit" includes a permit, approval, registration, authorization, licence, exemption, order or certificate, including a certificate of public convenience and necessity under the Utilities Commission Act, but does not include an excluded permit;

"right", in relation to a right held by the authority or the transmission corporation, includes a right under a trust, a cause of action and a claim.

#### Transfer of property

22 (1) Subject to subsection (2) and despite any enactment or law to the contrary, on the coming into force of this Part, all of the transmission corporation's rights, property, assets, included contracts and included permits are transferred to and vested in the authority.

(2) Subsection (1) does not apply to excluded contracts and excluded permits.

(3) Despite any enactment or law to the contrary, on the coming into force of this Part, the shares of the transmission corporation are transferred to and vested in the authority.

(4) The shares transferred to and vested in the authority under subsection (3) must not be sold or otherwise disposed of, but may be surrendered for cancellation.

(5) Despite any enactment or law to the contrary,

(a) the transfer and vesting effected by subsections (1) and (3) take effect without

(i) the execution or issue of any record, or

(ii) any registration or filing of this Act or any other record in or with any registry or other office,

(b) the transfer and vesting effected by subsections (1) and (3) take effect despite

(i) any prohibition on all or any part of the transfer and vesting, and

(ii) the absence of any consent or approval that is or may be required for all or any part of the transfer and vesting,

(c) if any right, property, asset, included contract or included permit referred to in subsection (1) is registered or otherwise recorded in the name of the transmission corporation, the registration or record may remain but is deemed, for all purposes of this and all other enactments and law, to

reflect that the right, property, asset, included contract or included permit is owned by and vested in or held by the authority, and

(d) in any record in or by which the authority deals with a right, property, asset, included contract or included permit referred to in subsection (1), it is sufficient to cite this Act as effecting and confirming the transfer from the transmission corporation to the authority of the included contract or included permit or of the title to the right, property or asset and the vesting of that title in the authority.

(6) For the purposes of this section, assets that become assets of the authority under this section include records and parts of records, and, without limiting this, all of the records and parts of records of the transmission corporation are transferred to and become the records of the authority on the coming into force of this Part.

(7) Without limiting subsection (5) (c) of this section, or section 383.1 of the Land Title Act, if a right, property or asset referred to in subsection (1) of this section is registered or recorded in the name of the transmission corporation,

(a) the authority may, in its own name,

(i) effect a transfer, charge, encumbrance or other dealing with the right, property or asset, and

(ii) execute any record required to give effect to that transfer, charge, encumbrance or other dealing, and

(b) an official

(i) who has authority over a registry or office, including, without limitation, the personal property registry and a land title office, in which title to or interests in the right, property or asset is registered or recorded, and

(ii) to whom a record referred to in paragraph (a) (ii) executed by or on behalf of the authority is submitted in support of the transfer, charge, encumbrance or other dealing

must give the record the same effect as if it had been duly executed by the transmission corporation.

#### Transfer of obligations and liabilities

23 On the coming into force of this Part, all obligations and liabilities of the transmission corporation, except for obligations and liabilities under an excluded contract or excluded permit,

(a) are transferred to and assumed by the authority,

(b) become the authority's obligations and liabilities,

(c) cease to be obligations and liabilities of the transmission corporation, and

(d) may be enforced against the authority as if the authority had incurred them.

## Records of transferred assets and liabilities

24 (1) Subject to subsection (2), a reference to the transmission corporation in any document, including, without limitation, any record, security agreement, lease, included permit, included contract, instrument or certificate that relates to anything transferred to the authority under this Part, is deemed to be a reference to the authority.

(2) If, under this Part, a part of a right, property, asset, obligation or liability is transferred to the authority, any document, including, without limitation, any record, security agreement, lease, included permit, included contract, instrument or certificate that relates to anything transferred to the authority under this Part, is deemed to be amended to reflect the authority's interests in that right, property, asset, obligation or liability.

## Transfer is not a default

25 Despite any provision to the contrary in any document, including, without limitation, any record, security agreement, lease, included permit, included contract, instrument or certificate, the transfer to the authority of a right, property, asset, included contract, included permit, share, obligation or liability under sections 22 and 23 does not constitute a breach or contravention of, or an event of default under, or confer a right to terminate the document, and, without limiting this, does not entitle any person who has an interest in the right, property, asset, included contract, included permit, share, obligation or liability to claim any damages, compensation or other remedy.

## Legal proceedings

26 (1) Any legal proceeding being prosecuted or pending by or against the transmission corporation on the date this Part comes into force may be prosecuted, or its prosecution may be continued, by or against the authority, and may not be prosecuted or continued against the transmission corporation.

(2) A conviction against the transmission corporation may be enforced against the authority, and may not be enforced against the transmission corporation.

(3) A ruling, order or judgment in favour of or against the transmission corporation may be enforced by or against the authority, and may not be enforced by or against the transmission corporation.

(4) A cause of action or claim against the transmission corporation existing on the date this Part comes into force must be prosecuted against the authority.

(5) Subject to subsections (1) to (4), a cause of action, claim or liability to prosecution existing on the date this Part comes into force is unaffected by anything done under this Part.

## Division 2 — Employees



## Definitions

27 In this Division:

"adjustment plan" means an adjustment plan under section 54 of the Labour Relations Code;

"collective agreement" has the same meaning as in section 1 (1) of the Labour Relations Code.

## Transfer of employees

28 (1) It is deemed that the persons who were, immediately before the coming into force of this Part, employees of the transmission corporation are, on the coming into force of this Part, transferred to and become employees of the authority.

(2) A question or difference between the authority and

(a) a transferred employee who is a member of a unit of employees for which a trade union has been certified under the Labour Relations Code, or

(b) a trade union representing transferred employees,

respecting the application of the Labour Relations Code, or the interpretation or application of this Division, may be referred to the Labour Relations Board in accordance with the procedure set out in the Labour Relations Code and its regulations.

(3) The Labour Relations Board may decide a question or difference referred to in subsection (2) in any of the ways, and by applying any of the remedies, available under the Labour Relations Code.

(4) On the date this Part comes into force, in respect of employees who are members of units of employees for which a trade union has been certified under the Labour Relations Code, the authority is the successor employer of those employees for the purposes of section 35 of the Labour Relations Code, without prejudice to the authority's right to apply for consolidation or merger of the bargaining units.

(5) If the authority or any trade union representing transferred employees makes an application to the Labour Relations Board to consolidate or merge the bargaining units representing transferred employees into a single bargaining unit for each trade union, the Labour Relations Board must consider that application having regard to the principles of business efficiency and without reference to the labour relations history at the authority or the transmission corporation relating to the presence of more than one bargaining unit for each trade union.

## Continuous employment

29 (1) The transfer of a transferred employee does not constitute a termination of the transferred employee's employment for the purposes of

- (a) an applicable collective agreement,
- (b) any employment contract involving the transferred employee, and
- (c) the Employment Standards Act.

(2) A transferred employee who is not subject to a collective agreement is deemed to have been employed by the authority without interruption in service.

(3) The service, with the transmission corporation, of a transferred employee who is not subject to a collective agreement is deemed to be service with the authority for the purpose of determining probationary periods and benefits, and any other employment related entitlements, under

- (a) the Employment Standards Act,
- (b) any other enactment, and
- (c) any employment contract.

(4) For the purposes of seniority, a transferred employee who is subject to a collective agreement is deemed to have been employed by the authority without interruption in service, unless the authority and the trade union representing the transferred employee have agreed to other seniority terms in an adjustment plan within 60 days after notice under section 54 of the Labour Relations Code is given, in which case the applicable terms respecting seniority in the adjustment plan apply.

(5) The service, with the transmission corporation, of a transferred employee who is subject to a collective agreement is deemed to be service with the authority for the purpose of determining probationary periods and benefits, and any other employment related entitlements, under

- (a) the Employment Standards Act,
- (b) any other enactment, and
- (c) any collective agreement,

unless the authority and the trade union representing the transferred employee have agreed to other probationary periods, benefits and entitlements in an adjustment plan within 60 days after notice under section 54 of the Labour Relations Code is given, in which case the applicable terms respecting probationary periods, benefits and entitlements in the adjustment plan apply.

(6) A transferred employee is deemed not to have been constructively dismissed solely by virtue of the transfer under section 28.

(7) Nothing in this Part

(a) prevents the employment of a transferred employee from being lawfully terminated after the transfer under section 28,

(b) prevents any term or condition of the employment of a transferred employee from being lawfully changed after the transfer under section 28, or

(c) removes any right or remedy of a person who is terminated after the transfer under section 28 or in respect of whom a term or condition of employment has been changed after the transfer under section 28.

#### Pensions

30 (1) For the purposes of the Pension Benefits Standards Act, the transfer of a transferred employee does not constitute a termination of membership in the transmission corporation's registered pension plan, or any other pension arrangement sponsored by the transmission corporation.

(2) Despite section 36 (1) of the Hydro and Power Authority Act, the authority does not require the approval of the Lieutenant Governor in Council to amend the authority's registered pension plan to implement the provisions of this Part, including the authority's assumption of all liability for the pension benefits payable under the transmission corporation's registered pension plan.

(3) Despite any enactment or law to the contrary, on the coming into force of this Part, all of the rights, property and assets that comprise

(a) the balance of fund account of the pension fund of the transmission corporation's registered pension plan are transferred to and vested in the balance of fund account of the pension fund of the authority's registered pension plan, and

(b) the index reserve account and past service index reserve account of the pension fund of the transmission corporation's registered pension plan are transferred to and vested in the index reserve account of the pension fund of the authority's registered pension plan,

and the resulting pension fund must be held by the trustee of the pension fund of the authority's registered pension plan.

(4) Section 22 (5) applies to the transfer and vesting effected by subsection (3) of this section.

#### Division 3 — General

#### Repealed

31 [Repealed 2010-22-31(3).]

#### Utilities Commission Act

32 (1) No approval, authorization, permit, certificate, exemption, permission, registration or order is required under the Utilities Commission Act with respect to

(a) the transmission corporation's ceasing to provide the service referred to in subsection (2) (a), or

(b) any transfer under this Part.

(2) The authority is deemed to have all the approvals, authorizations, permits, certificates, exemptions, permissions, registrations or orders that, under the Utilities Commission Act, are or may be required to continue

(a) to provide the service the transmission corporation provided immediately before the coming into force of this Part, and

(b) to charge, collect and enforce the rates the transmission corporation charged, collected and enforced immediately before the coming into force of this Part.

(3) [Repealed 2010-22-32(4).]

(4) Subsection (3) is repealed on July 1, 2011.

Designated agreements

33 On the coming into force of this Part, the agreements designated under section 3 of the Transmission Corporation Act have no force or effect.

## Part 8 — Regulations

### Division 1 — Regulations by Lieutenant Governor in Council

#### General

34 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act.

(2) In making a regulation under this Act, the Lieutenant Governor in Council may do one or more of the following:

(a) delegate a matter to a person;

(b) confer a discretion on a person;

(c) make different regulations for different persons, places, things, decisions, transactions or activities.

## Regulations

35 Without limiting section 34 (1), the Lieutenant Governor in Council may make regulations as follows:

(a) respecting forecasts for the purposes of the definition of "electricity supply obligations" in section 6 (1);

(b) adding a heritage asset to Schedule 1 of this Act;

(c) prescribing water conditions for the purposes of the definition of "heritage energy capability" in section 6 (1);

(d) modifying or adding to British Columbia's energy objectives, except for the objective specified in section 2 (g);

(e) for the purposes of sections 44.1, 44.2, 46 and 71 of the Utilities Commission Act, respecting the application of British Columbia's energy objectives to public utilities other than the authority;

(f) establishing factors or guidelines the commission must follow in respect of British Columbia's energy objectives, including guidelines regarding the relative priority of the objectives set out in section 2;

(g) respecting consultations the authority must carry out in relation to

(i) the development of an integrated resource plan and of an amendment to an integrated resource plan,

(ii) an integrated resource plan submitted under section 3 (6), and

(iii) an amendment to an integrated resource plan submitted under section 3 (7);

(h) prescribing submission dates for the purposes of section 3 (6);

(i) respecting the authority's obligation under section 6 (3), including, without limitation, regulations permitting the authority to enter into contracts respecting the electricity referred to in section 6 (2) and prescribing the terms and conditions on which, and the volume of electricity about which, the contracts may be entered into;

(j) respecting the program referred to in section 9, including prescribing classes of customers and terms;

(k) prescribing storage capability for the purposes of the definition of "prohibited projects" in section 10, including, without limitation, prescribing storage capability in terms of time, impoundment, mechanism or area;

(l) respecting the standing offer program to be established under section 15, including, without limitation, regulations that

(i) prescribe requirements, technologies, generation facilities and classes of generation facilities for the purposes of the definition of "eligible facility" in section 15 (1),

(ii) prescribe a capacity for the purposes of the definition of "maximum nameplate capacity" in section 15 (1),

(iii) prescribe circumstances for the purposes of section 15 (2), and

(iv) prescribe requirements for the purposes of section 15 (3);

(m) respecting the feed-in tariff program that may be established under section 16, including, without limitation, regulations that

(i) prescribe regions and technologies for the purposes of the definition of "feed-in tariff program" in section 1 (1),

(ii) require the authority to establish the feed-in tariff program,

(iii) prescribe requirements for the purposes of section 16 (2),

(iv) prescribe amounts and periods for the purposes of section 16 (3), and

(v) prescribe costs for the purposes of section 8 (1) (b);

(n) for the purposes of the definition of "prescribed undertaking" in section 18, prescribing classes of projects, programs, contracts or expenditures that encourage

(i) the use of

(A) electricity, or

(B) energy directly from a clean or renewable resource

instead of the use of other energy sources that produce higher greenhouse gas emissions, or

(ii) the use of natural gas, hydrogen or electricity in vehicles, and the construction and operation of infrastructure for natural gas or hydrogen fueling or electricity charging.

## Division 2 — Regulations by Minister

### General

36 (1) In making a regulation under this Act, the minister may do one or more of the following:

(a) delegate a matter to a person;

(b) confer a discretion on a person;

(c) make different regulations for different persons, places, things, decisions, transactions or activities.

(2) The minister may make a regulation defining, for the purposes of this Act, a word or expression used but not defined in this Act.

#### Regulations

37 The minister may make regulations as follows:

(a) prescribing resources for the purposes of the definition of "clean or renewable resource" in section 1 (1);

(b) prescribing exclusions for the purposes of the definition of "demand-side measure" in section 1 (1);

(c) authorizing the authority for the purposes of sections 3 (5), 6 and 13;

(d) describing the projects, programs, contracts and expenditures referred to in section 7 (1), including, without limitation, by specifying the property, interests, rights, activities, contracts and rates that comprise the projects, programs, contracts and expenditures;

(e) specifying sections of the Utilities Commission Act for the purposes of section 7 (1);

(f) respecting reports to be provided to the minister by the authority under section 8 (4), including, without limitation, regulations respecting the jurisdictions with which comparisons are to be made, the rate classes to be considered, the factors to be used in making the comparisons and conducting the assessments, and the meaning to be given to the word "competitive";

(g) for the purposes of section 17, respecting smart meters and smart grids and their installation, including, without limitation,

(i) prescribing the types of smart meters to be installed, including the features or functions each meter must have or be able to perform,

(ii) prescribing types of smart grids to be installed, including, without limitation, equipment to detect unauthorized use or consumption of electricity, equipment to facilitate distributed generation and associated telecommunication and back-up systems, and

(iii) prescribing the classes of users for whom smart meters must be installed, and, without limiting section 36 (1) (c), requiring the authority to install different types of smart meters for different classes of users;

(g.1) for the purposes of section 17.1, including, without limitation,

(i) prescribing requirements for the purposes of the definitions of "eligible person" and "energy report" in section 17.1 (1),

- (ii) prescribing qualifications for the purposes of the definitions of "qualified person" and "qualified energy advisor" in section 17.1 (1),
- (iii) prescribing public utilities and classes of public utilities to which section 17.1 (2) applies,
- (iv) prescribing requirements for the purposes of section 17.1 (3),
- (v) prescribing forms for the purposes of section 17.1 (4) (b) (ii),
- (vi) prescribing classes of improvements for which financing agreements may be made,
- (vii) respecting the notice referred to in section 17.1 (7), and
- (viii) prescribing amounts and periods for the purposes of section 17.1 (8);
- (h) prescribing targets, guidelines, public utilities and classes of public utilities for the purposes of section 19;
- (i) issuing a direction for the purposes of section 31.

#### Division 3 — Regulations by Treasury Board

##### Regulations

38 Treasury Board may make regulations as follows:

- (a) prescribing classes of projects and authorizations for the purposes of the definition of "power project" in section 20 (1), including, without limitation, prescribing classes of projects by reference to whether, or the extent to which, a project is a project of any organization of the government reporting entity, within the meaning of that definition;
- (b) prescribing amounts and percentages for the purposes of section 20 (3), (4) (b) and (5) (a).

#### Part 9 — Transition

##### Repealed

39 [Repealed 2010-22-39(2).]

#### Part 10 — Consequential Amendments

##### Consequential Amendments



[Note: See Table of Legislative Changes for the status of sections 40 to 76.]

Section(s)	Affected Act
40-43	BC Hydro Public Power Legacy and Heritage Contract Act
44	Environmental Assessment Act
45	Financial Information Act
46-51	Forest Act
52	Freedom of Information and Protection of Privacy Act
53-56	Hydro and Power Authority Act
57	Transmission Corporation Act
58-73	Utilities Commission Act
74-76	Wildfire Act

#### Commencement

77 The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item	Column 1	Column 2
	Provisions of Act	Column 2
	Commencement	
1	Anything not elsewhere covered by this table	The date of Royal Assent
2	Sections 21 to 33	July 5, 2010
3	Section 42	July 5, 2010
4	Section 45	By regulation of the Lieutenant Governor in Council
5	Section 52	By regulation of the Lieutenant Governor in Council
6	Section 55 (d)	July 5, 2010
7	Section 57	July 5, 2010
8	Section 59	July 5, 2010

Schedule 1

Heritage Assets

Those generation and storage assets commonly known as the following:

Aberfeldie

Alouette

Ash River

Bridge River

Buntzen/Coquitlam

Burrard Thermal

Cheakamus

Clowhom

Duncan

Elko

Falls River

Fort Nelson

G. M. Shrum

Hugh Keenleyside Dam (Arrow Reservoir)

John Hart

Jordan

Kootenay Canal

La Joie

Ladore

Mica, including units 1 to 6

Peace Canyon  
Prince Rupert  
Puntledge  
Revelstoke, including units 1 to 6  
Ruskin  
Site C  
Seton  
Seven Mile  
Shuswap  
Spillimacheen  
Stave Falls  
Strathcona  
Waneta  
Wahleach  
Walter Hardman  
Whatshan  
Schedule 2

#### Prohibited Projects

The projects of the authority, as set out in appendix F-8 of the authority's long-term acquisition plan, exhibit B-1-1, filed with the commission on June 12, 2008, are prohibited projects for the purposes of section 10, in particular, the following projects identified in appendix F-8:

- (a) Murphy Creek;
- (b) Border;
- (c) High Site E;
- (d) Low Site E;

(e) Elaho;

(f) McGregor Lower Canyon;

(g) Homathko River;

(h) Liard River;

(i) Iskut River;

(j) Cutoff Mountain;

(k) McGregor River Diversion.

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