

This Act is current to 30 November 2016.

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

UTILITIES COMMISSION ACT
[RSBC 1996] CHAPTER 473

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Definitions

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.

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.
- (2) The Lieutenant Governor in Council, after consultation with the chair, may designate a commissioner appointed under subsection (1) (b) as a deputy chair.
- (3) The chair may appoint a deputy chair or commissioner to act as chair for any purpose specified in the appointment.
- (4) [Repealed 2015-10-189.]
- (4.1) Section 47 (2) of the Administrative Tribunals Act applies to the commission respecting an order for costs under sections 117 and 118 of this Act.
- (5) The chair is the chief executive officer of the commission and has supervision over and direction of the work of the other commissioners and the chief operating officer.

Application of Administrative Tribunals Act

2.1 The following provisions of the Administrative Tribunals Act apply to the commission, and, for that purpose, a reference in those provisions to a vice chair under that Act must be read as a reference to a deputy chair under this Act:

- (a) Part 1 [Interpretation and Application];
- (b) Part 2 [Appointments];
- (c) Part 3 [Clustering];
- (d) Part 4 [Practice and Procedure], except the following:
 - (i) section 14 [general power to make orders];
 - (ii) section 16 [consent orders];
 - (iii) section 17 [withdrawal or settlement of application];
 - (iv) section 22 [notice of appeal (inclusive of prescribed fee)];
 - (v) section 23 [notice of appeal (exclusive of prescribed fee)];
 - (vi) section 24 [time limit for appeals];
 - (vii) section 25 [appeal does not operate as stay];
 - (viii) section 26 [organization of tribunal];
 - (ix) section 27 [staff of tribunal];
 - (x) section 31 [summary dismissal];
 - (xi) section 34 (1) and (2) [party power to compel witnesses and order disclosure];
- (e) section 44 [tribunal without jurisdiction over constitutional questions];
- (f) section 46.3 [tribunal without jurisdiction to apply the Human Rights Code];
- (g) section 48 [maintenance of order at hearings];
- (h) section 49 [contempt proceeding for uncooperative witness or other person];

- (i) section 54 [enforcement of tribunal's final decision];
- (j) section 56 [immunity protection for tribunal and members];
- (k) section 59.1 [surveys];
- (l) section 59.2 [reporting];
- (m) section 60 (1) (a), (b) and (g) to (i) and (2) [power to make regulations];
- (n) section 61 [application of Freedom of Information and Protection of Privacy Act].

Commission subject to direction

3 (1) Subject to subsection (3), the Lieutenant Governor in Council, by regulation, may issue a direction to the commission with respect to the exercise of the powers and the performance of the duties of the commission, including, without limitation, a direction requiring the commission to exercise a power or perform a duty, or to refrain from doing either, as specified in the regulation.

(2) The commission must comply with a direction issued under subsection (1), despite

(a) any other provision of

(i) this Act, except subsection (3) of this section, or

(ii) the regulations,

(a.1) any provision of the Clean Energy Act or the regulations under that Act, or

(b) any previous decision of the commission.

(3) The Lieutenant Governor in Council may not under subsection (1) specifically and expressly

(a) declare an order or decision of the commission to be of no force or effect, or

(b) require the commission to rescind an order or a decision.

Sittings and divisions

4 (1) The commission

(a) must sit at the times and conduct its proceedings in a manner it considers convenient for the proper discharge and speedy dispatch of its duties under this Act.

(b) [Repealed 2004-45-164.]

(2) The chair may organize the commission into divisions.

(3) The commissioners must sit

(a) as the commission, or

(b) as a division of the commission.

(4) If commissioners sit as a division

(a) 2 or more divisions may sit at the same time,

(b) the division has all the jurisdiction of and may exercise and perform the powers and duties of the commission, and

(c) a decision or action of the division is a decision or action of the commission.

(5) At a sitting of the commission or of a division of the commission, one commissioner is a quorum.

(6) The chair may designate a commissioner to serve as chair at any sitting of the commission or a division of it.

(7) If a proceeding is being held by the commission or by a division and a sitting commissioner is absent or unable to attend,

(a) that commissioner is thereafter disqualified from continuing to sit on the proceeding, and

(b) despite subsection (5), the commissioner or commissioners remaining present and sitting must exercise and perform all the jurisdiction, powers and duties of the commission.

(8) and (9) [Repealed 2003-46-2.]

(10) In the case of a tie vote at a sitting of the commission or a division of the commission, the decision of the chair of the commission or the division governs.

(11) If a division is comprised of one member and that member is unable for any reason to complete the member's duties, the chair of the commission, with the consent of all parties to the application, may organize a new division to continue to hear and determine the matter on terms agreed to by the parties, and the vacancy does not invalidate the proceeding.

Commission's duties

5 (0.1) [Repealed 2010-22-61.]

(1) On the request of the Lieutenant Governor in Council, it is the duty of the commission to advise the Lieutenant Governor in Council on any matter, whether or not it is a matter in respect of which the commission otherwise has jurisdiction.

(2) If, under subsection (1), the Lieutenant Governor in Council refers a matter to the commission, the Lieutenant Governor in Council may specify terms of reference requiring and empowering the commission to inquire into the matter.

(3) The commission may carry out a function or perform a duty delegated to it under an enactment of British Columbia or Canada.

(4)-(9) [Repealed 2010-22-61.]

Repealed

6 [Repealed 2004-45-165.]

Employees

7 (1) The commission

(a) must employ a chief operating officer,

(b) may employ a secretary and other officers and employees it considers necessary, and

(c) may, subject to sections 9.1 and 10, determine the duties, the conditions of employment and the remuneration of the persons employed under paragraph (a) or (b) of this subsection.

(2) The Public Service Act does not apply to the employment of persons under subsection (1).

Technical consultants

8 The commission may appoint or engage persons having special or technical knowledge necessary to assist the commission in carrying out its functions.

Pensions

9 The Lieutenant Governor in Council may, by order, direct that the Public Service Pension Plan, continued under the Public Sector Pension Plans Act, applies to commissioners, officers and other employees of the commission, but the commission may, alone or in cooperation with other corporations, departments, commissions or other agencies of the Crown, establish, support or participate in any one or more of

(a) a pension or superannuation plan, or

(b) a group insurance plan

for the benefit of commissioners, officers and other employees of the commission and their dependants.

Chief operating officer's duties

9.1 Subject to section 2 (5), the chief operating officer must

(a) oversee the operations of the commission, and

(b) supervise the work of the persons referred to in section 8 and the commission's employees.

Secretary's duties

10 (1) The secretary must

(a) keep a record of the proceedings before the commission,

(b) ensure that every rule, regulation and order of the commission is filed in the records of the commission,

(c) have custody of all rules, regulations and orders made by the commission and all other records and documents of, or filed with, the commission, and

(d) carry out the instructions and directions of the commission under this Act respecting the secretary's duties or office.

(2) On the application of a person who pays a prescribed fee, the secretary must deliver to the person a certified copy of any rule, regulation or order of the commission.

(3) In the absence of the secretary, the duties of the secretary under this Act may be performed by another person appointed by the commission.

(4) A rule, regulation and order of the commission must be signed by the chair, a deputy chair or an acting chair, and the original or a copy of it must be delivered to the secretary for filing.

Conflict of interest

11 (1) A commissioner or employee of the commission must not, directly or indirectly,

- (a) hold, acquire or have a beneficial interest in a share, stock, bond, debenture or other security of a corporation or other person subject to regulation under Part 3 of this Act,
 - (b) have a significant beneficial interest in a device, appliance, machine, article, patent or patented process, or a part of it, that is required or used by a corporation or other person referred to in paragraph (a) for the purpose of its equipment or service, or
 - (c) have a significant beneficial interest in a contract for the construction of works or the provision of a service for or by a corporation or other person referred to in paragraph (a).
- (2) A commissioner or employee of the commission, in whom a beneficial interest referred to in subsection (1) is or becomes vested, must divest himself or herself of the beneficial interest within 3 months after appointment to the commission or acquisition of the property, as the case may be.
- (3) The use or purchase for personal or domestic purposes, of gas, heat, light, power, electricity or petroleum products or service from a corporation or other person subject to regulation under this Act is not a contravention of this section, and does not disqualify a commissioner or employee from acting in any matter affecting that corporation or other person.

Obligation to keep information confidential

12 (1) Every commissioner and every officer and employee of the commission must keep secret all information coming to the person's knowledge during the course of the administration of this Act, except insofar as disclosure is necessary for the administration of this Act or insofar as the commission authorizes the person to release the information.

(2) A commissioner, officer or employee of the commission must not be required to testify or produce evidence in any proceeding, other than a criminal proceeding, about records or information obtained in the discharge of duties under this Act.

(3) Despite subsection (2), the Supreme Court may require the commission to produce the record of a proceeding that is the subject of an application for judicial review under the Judicial Review Procedure Act.

Annual report

13 (1) In each year, the commission must make a report to the Lieutenant Governor in Council for the preceding fiscal year, setting out briefly

- (a) all applications and complaints to the commission under this Act and summaries of the commission's findings on them,
- (b) other matters that the commission considers to be of public interest in connection with the discharge of its duties under this Act, and
- (c) other information the Lieutenant Governor in Council directs.

(2) The report must be laid before the Legislative Assembly as soon as possible after it is submitted to the Lieutenant Governor in Council.

Part 2

Repealed

14–20 [Repealed 2003-46-5.]

Part 3 — Regulation of Public Utilities

Application of this Part

21 (1) This Part applies only to a public utility that is subject to the legislative authority of the Province.

(2) The provision by a public utility of a class of service in respect of which the public utility is not subject to the legislative authority of the Province does not make this Part inapplicable to that public utility in respect of any other class of service.

Exemptions

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

(2) The minister, by regulation, may

- (a) exempt from any or all of section 71 and the provisions of this Part
- (i) a public utility, or

- (ii) a public utility in respect of any equipment, facility, plant, project, activity, contract, service or system of the public utility, and
- (b) in respect of an exemption made under paragraph (a), impose any terms and conditions the minister considers to be in the public interest.
- (3) The minister, before making a regulation under subsection (2), may refer the matter to the commission for a review.

General supervision of public utilities

23 (1) The commission has general supervision of all public utilities and may make orders about

- (a) equipment,
 - (b) appliances,
 - (c) safety devices,
 - (d) extension of works or systems,
 - (e) filing of rate schedules,
 - (f) reporting, and
 - (g) other matters it considers necessary or advisable for
 - (i) the safety, convenience or service of the public, or
 - (ii) the proper carrying out of this Act or of a contract, charter or franchise involving use of public property or rights.
- (2) Subject to this Act, the commission may make regulations requiring a public utility to conduct its operations in a way that does not unnecessarily interfere with, or cause unnecessary damage or inconvenience to, the public.

Commission must make examinations and inquiries

24 In its supervision of public utilities, the commission must make examinations and conduct inquiries necessary to keep itself informed about

- (a) the conduct of public utility business,
- (b) compliance by public utilities with this Act, regulations or any other law, and
- (c) any other matter in the commission's jurisdiction.

Commission may order improved service

25 If the commission, after a hearing held on its own motion or on complaint, finds that the service of a public utility is unreasonable, unsafe, inadequate or unreasonably discriminatory, the commission must

- (a) determine what is reasonable, safe, adequate and fair service, and
- (b) order the utility to provide it.

Commission may set standards

26 After a hearing held on the commission's own motion or on complaint, the commission may do one or more of the following:

- (a) determine and set just and reasonable standards, classifications, rules, practices or service to be used by a public utility;
- (b) determine and set adequate and reasonable standards for measuring quantity, quality, pressure, initial voltage or other conditions of supplying service;
- (c) prescribe reasonable regulations for examining, testing or measuring a service;
- (d) establish or approve reasonable standards for accuracy of meters and other measurement appliances;
- (e) provide for the examination and testing of appliances used to measure a service of a utility.

Joint use of facilities

27 (1) If the commission, after a hearing, finds that

- (a) public convenience and necessity require the use by a public utility of conduits, subways, poles, wires or other equipment belonging to another public utility, and
 - (b) the use will not prevent the owner or other users from performing their duties or result in any substantial detriment to their service,
- the commission may, if the utilities fail to agree on the use, conditions or compensation, make an order it considers reasonable, directing that the use or joint use of the conduits, subways, poles, wires or other equipment be allowed and prescribing conditions of and compensation for the use.

(2) If the commission, after a hearing, finds that the provision of adequate service by one public utility or the safety of the persons operating or using that service requires that wires or cables carrying electricity and run, placed, erected, maintained or used by another public utility be placed, constructed or equipped with safety devices, the commission may make an order it considers reasonable about the placing, construction or equipment.

(3) By the same or a later order, the commission may

(a) direct that the cost of the placing, construction or equipment be at the expense of the public utility whose wire, cable or apparatus was most recently placed, or

(b) in the discretion of the commission, apportion the cost between the utilities.

Utility must provide service if supply line near

28 (1) On being requested by the owner or occupier of the premises to do so, a public utility must supply its service to premises that are located within 200 metres of its supply line or any lesser distance that the commission prescribes suitable for that purpose.

(2) Before supplying the service under subsection (1) or making a connection for the purpose, or as a condition of continuing to supply the service, the public utility may require the owner or occupier to give reasonable security for repayment of the costs of making the connection as set out in the filed schedule of rates.

(2.1) If required to do so by regulation, the commission, in accordance with the prescribed requirements, must set a rate for the authority respecting the service provided under subsection (1).

(2.2) A requirement prescribed for the purposes of subsection (2.1) applies despite

(a) any other provision of this Act or any regulation under this Act, except for a regulation under section 3, or

(b) any previous decision of the commission.

(3) After a hearing and for proper cause, the commission may relieve a public utility from the obligation to supply service under this Act on terms the commission considers proper and in the public interest.

Commission may order utility to provide service if supply line distant

29 On the application of a person whose premises are located more than 200 metres from a supply line suitable for that purpose, the commission may order a public utility that controls or operates the line

(a) to supply, within the time the commission directs, the service required by that person, and

(b) to make extensions and install necessary equipment and apparatus on terms the commission directs, which terms may include payment of all or part of the cost by the applicant.

Commission may order extension of existing service

30 If the commission, after a hearing, determines that

(a) an extension of the existing services of a public utility, in a general area that the public utility may properly be considered responsible for developing, is feasible and required in the public interest, and

(b) the construction and maintenance of the extension will not necessitate a substantial increase in rates chargeable, or a decrease in services provided, by the utility elsewhere,

the commission may order the utility to make the extension on terms the commission directs, which may include payment of all or part of the cost by the persons affected.

Regulation of agreements

31 The commission may make rules governing conditions to be contained in agreements entered into by public utilities for their regulated services or for a class of regulated service.

Use of municipal thoroughfares

32 (1) This section applies if a public utility

(a) has the right to enter a municipality to place its distribution equipment on, along, across, over or under a public street, lane, square, park, public place, bridge, viaduct, subway or watercourse, and

(b) cannot come to an agreement with the municipality on the use of the street or other place or on the terms of the use.

(2) On application and after any inquiry it considers advisable, the commission may, by order, allow the use of the street or other place by the public utility for that purpose and specify the manner and terms of use.

Dispensing with municipal consent

33 (1) This section applies if a public utility

(a) cannot agree with a municipality respecting placing its distribution equipment on, along, across, over or under a public street, lane, square, park, public place, bridge, viaduct, subway or watercourse in a municipality, and

(b) the public utility is otherwise unable, without expenditures that the commission considers unreasonable, to extend its system, line or apparatus from a place where it lawfully does business to another place where it is authorized to do business.

(2) On application and after a hearing, for the purpose of that extension only and without unduly preventing the use of the street or other place by other persons, the commission may, by order,

(a) allow the use of the street or other place by the public utility, despite any law or contract granting to another person exclusive rights, and

(b) specify the manner and terms of the use.

Order to extend service in municipality

34 (1) On the complaint of a municipality that a public utility doing business in the municipality fails to extend its service to a part of the municipality, and after any hearing the commission considers advisable, the commission may order the public utility to extend its service in a way that the commission considers reasonable and proper.

(2) An order under subsection (1) may

(a) in the commission's discretion, impose terms for the extension, including the expenditure to be incurred for all necessary works, and

(b) apportion the cost between the public utility, the municipality and consumers receiving service from the extension.

Other orders to extend service

35 If the commission, after a hearing, concludes that in its opinion an extension by a public utility of its existing service would provide sufficient business to justify the construction and maintenance of the extension, and the financial condition of the public utility reasonably warrants the capital expenditure required, the commission may order the utility to extend its service to the extent the commission considers reasonable and proper.

Use of municipal structures

36 Subject to any agreement between a public utility and a municipality and to the franchise or rights of the public utility, and after any hearing the commission considers advisable, the commission may, by order, specify the terms on which the public utility may use for any purpose of its service

(a) a highway in the municipality, or

(b) a public bridge, viaduct or subway constructed or to be constructed by the municipality alone or jointly with another municipality, corporation or government.

Supervisors and inspectors

37 (1) If the commission considers that a supervisor or inspector should be appointed to supervise or inspect, continuously or otherwise, the system, works, plant, equipment or service of a public utility with a view to establishing and carrying out measures for

(a) the safety of the public and of the users of the utility's service, or

(b) adequacy of service,

the commission may appoint a supervisor or inspector for that utility and may specify the person's duties.

(2) The commission may

(a) set the salary and expenses of a supervisor or inspector appointed under subsection (1), and

(b) order the amount set

(i) to be borne by the municipality in which the operations of the public utility are carried on or its service is provided, or

(ii) to be borne or apportioned in a way the commission considers equitable.

Public utility must provide service

38 A public utility must

- (a) provide, and
- (b) maintain its property and equipment in a condition to enable it to provide, a service to the public that the commission considers is in all respects adequate, safe, efficient, just and reasonable.

No discrimination or delay in service

39 On reasonable notice, a public utility must provide suitable service without undue discrimination or undue delay to all persons who

- (a) apply for service,
- (b) are reasonably entitled to it, and
- (c) pay or agree to pay the rates established for that service under this Act.

Exemption for part of municipality

40 (1) On application, the commission may, by order, exempt a municipality from section 39 except in a defined area.

(2) On application by any person and after notice to the municipality, the commission may enlarge or reduce an area defined under subsection (1).

No discontinuance without permission

41 A public utility that has been granted a certificate of public convenience and necessity or a franchise, or that has been deemed to have been granted a certificate of public convenience and necessity, and has begun any operation for which the certificate or franchise is necessary, or in respect of which the certificate is deemed to have been granted, must not cease the operation or a part of it without first obtaining the permission of the commission.

Duty to obey orders

42 A public utility must obey the lawful orders of the commission made under this Act for its business or service, and must do all things necessary to secure observance of those orders by its officers, agents and employees.

Duty to provide information

43 (1) A public utility must, for the purposes of this Act,

- (a) answer specifically all questions of the commission, and
- (b) provide to the commission
 - (i) the information the commission requires, and
 - (ii) a report, submitted annually and in the manner the commission requires, regarding the demand-side measures taken by the public utility during the period addressed by the report, and the effectiveness of those measures.

(1.1) [Repealed 2010-22-64.]

(2) A public utility that receives from the commission any form of return must fully and correctly answer each question in the return and deliver it to the commission.

(3) On request by the commission, a public utility must deliver to the commission

- (a) all profiles, contracts, reports of engineers, accounts and records in its possession or control relating in any way to its property or service or affecting its business, or verified copies of them, and
- (b) complete inventories of the utility's property in the form the commission directs.

(4) On request by the commission, a public utility must file with the commission a statement in writing setting out the name, title of office, post office address and the authority, powers and duties of

- (a) every member of the board of directors and the executive committee,
- (b) every trustee, superintendent, chief or head of construction or operation, or of any department, branch, division or line of construction or operation, and
- (c) other officers of the utility.

(5) The statement required under subsection (4) must be filed in a form that discloses the source and origin of each administrative act, rule, decision, order or other action of the utility.

Duty to keep records

44 (1) A public utility must have in British Columbia an office in which it must keep all accounts and records required by the commission to be kept in British Columbia.

(2) A public utility must not remove or permit to be removed from British Columbia an account or record required to be kept under subsection (1), except on conditions specified by the commission.

Long-term resource and conservation planning

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

(2) Subject to subsection (4), 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.

(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 applicable 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) an applicable integrated resource plan approved under section 4 of the Clean Energy 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.

(8) The commission must not give its approval unless it determines that the privilege, concession or franchise proposed is necessary for the public convenience and properly conserves the public interest.

(9) In giving its approval, the commission

(a) must grant a certificate of public convenience and necessity, and

(b) may impose conditions about

(i) the duration and termination of the privilege, concession or franchise, or

(ii) construction, equipment, maintenance, rates or service,
as the public convenience and interest reasonably require.

Procedure on application

46 (1) An applicant for a certificate of public convenience and necessity must file with the commission information, material, evidence and documents that the commission prescribes.

(2) The commission has a discretion whether or not to hold any hearing on the application.

(3) Subject to subsections (3.1) to (3.3), the commission may, by order, issue or refuse to issue the certificate, or may issue a certificate of public convenience and necessity for the construction or operation of a part only of the proposed facility, line, plant, system or extension, or for the partial exercise only of a right or privilege, and may attach to the exercise of the right or privilege granted by the certificate, terms, including conditions about the duration of the right or privilege under this Act as, in its judgment, the public convenience or necessity may require.

(3.1) In deciding whether to issue a certificate under subsection (3) applied for 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, and

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

(3.2) Section (3.1) does not apply if the commission considers that the matters addressed in the application for the certificate were determined to be in the public interest in the course of considering a long-term resource plan under section 44.1.

(3.3) In deciding whether to issue a certificate under subsection (3) to 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) an applicable integrated resource plan approved under section 4 of the Clean Energy Act, and

(c) the extent to which the application for the certificate is consistent with the requirements under section 19 of the Clean Energy Act.

(4) If a public utility desires to exercise a right or privilege under a consent, franchise, licence, permit, vote or other authority that it proposes to obtain but that has not, at the date of the application, been granted to it, the public utility may apply to the commission for an order preliminary to the issue of the certificate.

(5) On application under subsection (4), the commission may make an order declaring that it will, on application, under rules it specifies, issue the desired certificate, on the terms it designates in the order, after the public utility has obtained the proposed consent, franchise, licence, permit, vote or other authority.

(6) On evidence satisfactory to the commission that the consent, franchise, licence, permit, vote or other authority has been secured, the commission must issue a certificate under section 45.

(7) The commission may, by order, amend a certificate previously issued, or issue a new certificate, for the purpose of renewing, extending or consolidating a certificate previously issued.

(8) A public utility to which a certificate is, or has been, issued, or to which an exemption is, or has been, granted under section 45 (4), is authorized, subject to this Act, to construct, maintain and operate the plant, system or extension authorized in the certificate or exemption.

Order to cease work

47 (1) If a public utility

(a) is engaged, or is about to engage, in the construction or operation of a plant or system, and
(b) has not secured or has not been exempted from the requirement for, or is not deemed to have received a certificate of public convenience and necessity required under this Act,
any interested person may file a complaint with the commission.

(2) The commission may, with or without notice, make an order requiring the public utility complained of to cease the construction or operation until the commission makes and files its decision on the complaint, or until further order of the commission.

(3) The commission may, after a hearing, make the order and specify the terms under this Act that it considers advisable.

(4) If the commission considers it necessary to determine whether a person is engaged or is about to engage in construction or operation of any plant or system, the commission may request that person to provide information required by it and to answer specifically all questions of the commission, and the person must comply.

Cancellation or suspension of franchises and permits

48 (1) If the commission, after a hearing, determines that a public utility holding a franchise, licence or permit has failed to exercise or has not continued to exercise or use the right and privilege granted by the franchise, licence or permit, the commission may

(a) cancel the franchise, licence or permit, or

(b) suspend for a time the commission considers advisable the rights, or any of them, under the franchise, licence or permit.

(2) If a franchise, licence or permit is cancelled, the utility must cease to operate.

(3) If a right under a franchise, licence or permit is suspended, the utility must cease to exercise the suspended right during the period of suspension.

Accounts and reports

49 The commission may, by order, require every public utility to do one or more of the following:

(a) keep the records and accounts of the conduct of the utility's business that the commission may specify, and for public utilities of the same class, adopt a uniform system of accounting specified by the commission;

(b) provide, at the times and in the form and manner the commission specifies, a detailed report of finances and operations, verified as specified;

(c) file with the commission, at the times and in the form and manner the commission specifies, a report of every accident occurring to or on the plant, equipment or other property of the utility, if the accident is of such nature as to endanger the safety, health or property of any person;

(d) obtain from a board, tribunal, municipal or other body or official having jurisdiction or authority, permission, if necessary, to undertake or carry on a work or service ordered by the commission to be undertaken or carried on that is contingent on the permission.

Commission approval of issue of securities

50 (1) In this section, "security" means any share of any class of shares of a public utility or any bond, debenture, note or other obligation of a public utility whether secured or unsecured.

(2) Except in the case of a security evidencing indebtedness payable less than one year from its date, a public utility must not issue a security without first obtaining approval of the commission under this section and, if section 54 applies, under that section.

(3) Without first obtaining the commission's approval, a public utility must not,

(a) in respect of a security that it has issued,

(i) increase a fixed dividend or fixed interest rate,

(ii) alter a maturity date for the issue,

(iii) restrict the utility's right to redeem the issue,

(iv) increase the premium to be paid on redemption, or

- (v) make a material alteration in the characteristics of the security, or
- (b) purchase, redeem or otherwise acquire shares of any class of the utility except in accordance with any special rights or restrictions attached to them.
- (4) Subsections (2) and (3) do not apply to the issue of shares under a genuine employee share purchase plan or genuine employee share option plan that has been filed with the commission.
- (5) Without first obtaining the commission's approval, a public utility must not guarantee the payment of all or part of a loan or all or part of the interest on a loan made to another person.
- (6) A public utility is not liable under a guarantee given by it after June 29, 1988, in contravention of subsection (5) or of a condition of approval imposed under subsection (7).
- (7) The commission may give its approval under this section subject to conditions and requirements considered necessary or desirable in the public interest.
- (8) A municipality is not a utility for the purpose of this section.

Restraint on capitalization

51 A public utility must not do any of the following:

- (a) capitalize a franchise or right to be a corporation;
- (b) capitalize a franchise, licence, permit or concession in excess of the amount that, exclusive of tax or annual charge, is paid to the government, a municipality or other public authority as consideration for the franchise, licence, permit or concession;
- (c) issue a security or evidence of indebtedness against a contract for consolidation, amalgamation, merger or lease.

Restraint on disposition

52 (1) Except for a disposition of its property in the ordinary course of business, a public utility must not, without first obtaining the commission's approval,

- (a) dispose of or encumber the whole or a part of its property, franchises, licences, permits, concessions, privileges or rights, or
- (b) by any means, direct or indirect, merge, amalgamate or consolidate in whole or in part its property, franchises, licences, permits, concessions, privileges or rights with those of another person.

(2) The commission may give its approval under this section subject to conditions and requirements considered necessary or desirable in the public interest.

Consolidation, amalgamation and merger

53 (1) A public utility must not consolidate, amalgamate or merge with another person

(a) unless the Lieutenant Governor in Council

- (i) has first received from the commission a report under this section including an opinion that the consolidation, amalgamation or merger would be beneficial in the public interest, and
- (ii) has, by order, consented to the consolidation, amalgamation or merger, and

(b) except in accordance with an order made under paragraph (a).

(2) The Lieutenant Governor in Council may, in an order under subsection (1) (a), include conditions and requirements that the Lieutenant Governor in Council considers necessary or advisable.

(3) An application for consent of the Lieutenant Governor in Council under subsection (1) must be made to the commission by the public utility.

(4) The commission must inquire into the application and may for that purpose hold a hearing.

(5) On conclusion of its inquiry, the commission must,

(a) if it is of the opinion that the consolidation, amalgamation or merger would be beneficial in the public interest, submit its report and findings to the Lieutenant Governor in Council, or

(b) dismiss the application.

(6) If a public utility gives notice to its shareholders of a meeting of shareholders in connection with a consolidation, amalgamation or merger, it must

(a) set out in the notice the provisions of this section, and

(b) file a copy of the notice with the commission at the time of mailing to the shareholders.

Reviewable interests

54 (1) In this section:

"child" includes a child in respect of whom a person referred to in the definition of "spouse" stands in the place of a parent;

"offeree" means a person to whom a take over bid is made;

"offeror" means a person, other than an agent, who makes a take over bid and includes 2 or more persons

(a) whose bids are made jointly or in concert, or

(b) who intend to exercise jointly or in concert any voting rights attaching to the shares for which a take over bid is made;

"spouse" means a person who

(a) is married to another person, or

(b) is living with another person in a marriage-like relationship, and has lived in that relationship for a period of at least 2 years;

"take over bid" has the same meaning as in section 92 of the Securities Act;

"voting share" means a share that has, or may under any special rights or restrictions attached to the share have, the right to vote for the election of directors, and for this purpose "share" includes

(a) a security convertible into such a share, and

(b) options and rights to acquire such a share or such a convertible security.

(2) For the purposes of this section, persons are associates if any of the following apply:

(a) one of the persons is a corporation

(i) of which more than 10% of the shares outstanding of any class of the corporation are beneficially owned or controlled, directly or indirectly, by the other person, or

(ii) of which the other is a director or officer;

(b) each of the persons is a corporation and

(i) more than 10% of the shares outstanding of any class of shares of one are beneficially owned or controlled, directly or indirectly, by the other, or

(ii) more than 10% of the shares outstanding of any class of shares of each are beneficially owned or controlled, directly or indirectly, by the same person;

(c) they are partners or one is a partnership of which the other is a partner;

(d) one is a trust in which the other has a substantial beneficial interest or for which the other serves as trustee or in a similar capacity;

(e) they are obligated to act in concert in exercising a voting right in respect of shares of the utility;

(f) one is the spouse or child of the other;

(g) one is a relative of the other or of the other's spouse and has the same home as the other.

(3) For the purpose of subsection (2), if a person has more than one associate, those associates are associates of each other.

(4) For the purpose of this section, a person has a reviewable interest in a public utility if

(a) the person owns or controls, or

(b) the person and the person's associates own or control,

in the aggregate more than 20% of the voting shares outstanding of any class of shares of the utility.

(5) A public utility must not, without the approval of the commission,

(a) issue, sell, purchase or register on its books a transfer of shares in the capital of the utility or create, or

(b) attach to any shares, whether issued or unissued, any special rights or restrictions,

if the issue, sale, purchase or registration or the creation or attachment of the special rights or restrictions would

(c) cause any person to have a reviewable interest,

(d) increase the percentage of voting shares owned by a person who has a reviewable interest,

(e) be a registration of a transfer of shares, the acquisition of which was contrary to subsection (7) or (8), or

(f) increase the voting rights attached to any shares owned by a person who has a reviewable interest.

(6) Failure of a public utility to comply with subsection (5) does not give rise to an offence if the public

utility acts in the genuine belief based on an enquiry made with reasonable care, that the issue, sale, purchase

or registration, or the creation or attachment of the special rights or restrictions, would not have the effects referred to in subsection (5) (c) to (f).

(7) A person must not acquire or acquire control of such numbers of any class of shares of a public utility as

(a) in themselves, or

(b) together with shares already owned or controlled by the person and the person's associates, cause the person to have a reviewable interest in a public utility unless the person has obtained the commission's approval.

(8) Except if the acquisition or acquisition of control does not increase the percentage of voting shares held, owned or controlled by the person or by the person and the person's associates, a person having a reviewable interest in a public utility and any associate of that person must not acquire or acquire control of any voting shares in the public utility unless the person or associate has obtained the commission's approval.

(9) The commission may give its approval under this section subject to conditions and requirements it considers necessary or desirable in the public interest, but the commission must not give its approval under this section unless it considers that the public utility and the users of the service of the public utility will not be detrimentally affected.

(10) If the commission determines that there has been a contravention of subsection (5), (7) or (8), the commission may, on notice to the public utility and after a hearing, make an order imposing on the public utility conditions and requirements respecting the management and operation of the utility.

(11) A proceeding must not be brought against the commission or the government by reason of the exercise by the commission of its powers under subsection (9) or (10).

(12) An offeror who makes a take over bid for shares of a public utility must

(a) file with the commission a copy of the take over bid and all supporting or supplementary material within 5 days after the date the material is first sent to offerees, and

(b) include in or attach to the take over bid a notice setting out the provisions of this section and stating the number, without duplication, and designation of any shares of the public utility held by the offeror and the offeror's associates.

(13) Nothing in subsection (12) relieves a person from any requirement under the Securities Act.

Appraisal of utility property

55 (1) The commission may

(a) ascertain by appraisal the value of the property of a public utility, and

(b) inquire into every fact that, in its judgment, has a bearing on that value, including the amount of money actually and reasonably expended in the undertaking to provide service reasonably adequate to the requirements of the community served by the utility as that community exists at the time of the appraisal.

(2) In making its appraisal, the commission must have access to all records in the possession of a municipality or any ministry or board of the government.

(3) In making its appraisal under this section, the commission may order

(a) that all or part of the costs and expenses of the commission in making the appraisal must be paid by the public utility, and

(b) that the utility pay an amount as the work of appraisal proceeds.

(4) The certificate of the chair of the commission is conclusive evidence of the amounts payable under subsection (3).

(5) Expenses approved by the commission in connection with an appraisal, including expenses incurred by the public utility whose property is appraised, must be charged by the utility to the cost of operating the property as a current item of expense, and the commission may, by order, authorize or require the utility to amortize this charge over a period and in the manner the commission specifies.

Depreciation accounts and funds

56 (1) If the commission, after inquiry, considers that it is necessary and reasonable that a depreciation account should be carried by a public utility, the commission may, by order, require the utility to keep an adequate depreciation account under rules and forms of account specified by the commission.

(2) The commission must determine and, by order after a hearing, set proper and adequate rates of depreciation.

(3) The rates must be set so as to provide, in addition to the expense of maintenance, the amounts required to keep the public utility's property in a state of efficiency in accordance with technical and engineering progress in that industry of the utility.

(4) A public utility must adjust its depreciation accounts to conform to the rates set by the commission and, if ordered by the commission, must set aside out of earnings whatever money is required and carry it in a depreciation fund.

(5) Without the consent of the commission, the depreciation fund must not be expended other than for replacement, improvement, new construction, extension or addition to the property of the utility.

Reserve funds

57 (1) The commission may, by order, require a public utility to create and maintain a reserve fund for any purpose the commission considers proper, and may set the amount or rate to be charged each year in the accounts of the utility for the purpose of creating the reserve fund.

(2) The commission may order that no reserve fund other than that created and maintained as directed by the commission may be created by a public utility.

Commission may order amendment of schedules

58 (1) The commission may,

(a) on its own motion, or

(b) on complaint by a public utility or other interested person that the existing rates in effect and collected or any rates charged or attempted to be charged for service by a public utility are unjust, unreasonable, insufficient, unduly discriminatory or in contravention of this Act, the regulations or any other law, after a hearing, determine the just, reasonable and sufficient rates to be observed and in force.

(2) If the commission makes a determination under subsection (1), it must, by order, set the rates.

(2.1) The commission must set rates for the authority in accordance with

(a) [Repealed RS1996-473-58 (2.3).]

(b) the prescribed factors and guidelines, if any.

(2.2) [Repealed RS1996-473-58 (2.3).]

(2.3) Subsections (2.1) (a) and (2.2) are repealed on March 31, 2010.

(2.4) Despite subsection (2.3), a requirement prescribed for the purposes of subsection (2.1) (a) that is in effect immediately before March 31, 2010, continues to apply after that date as though subsection (2.2) were still in force, unless the prescribed requirement is amended or repealed after that date.

(3) The public utility affected by an order under this section must

(a) amend its schedules in conformity with the order, and

(b) file amended schedules with the commission.

Rate rebalancing

58.1 (1) In this section, "revenue-cost ratio" means the amount determined by dividing the authority's revenues from a class of customers during a period of time by the authority's costs to serve that class of customers during the same period of time.

(2) This section applies despite

(a) any other provision of

(i) this Act, or

(ii) the regulations, except a regulation under section 3, or

(b) any previous decision of the commission.

(3) The following decision and orders of the commission are of no force or effect to the extent that they require the authority to do anything for the purpose of changing revenue-cost ratios:

(a) 2007 RDA Phase 1 Decision, issued October 26, 2007;

(b) order G-111-07, issued September 7, 2007;

(c) order G-130-07, issued October 26, 2007;

(d) order G-10-08, issued January 21, 2008,

and the rates of the authority that applied immediately before this section comes into force continue to apply and are deemed to be just, reasonable and not unduly discriminatory.

(4) [Repealed RS1996-473-58.1 (5).]

(5) Subsection (4) is repealed on March 31, 2010.

(6) Nothing in subsection (3) prevents the commission from setting rates for the authority, but the commission, after March 31, 2010, may not set rates for the authority such that the revenue-cost ratio, expressed as a percentage, for any class of customers increases by more than 2 percentage points per year compared to the revenue-cost ratio for that class immediately before the increase.

Discrimination in rates

59 (1) A public utility must not make, demand or receive

(a) an unjust, unreasonable, unduly discriminatory or unduly preferential rate for a service provided by it in British Columbia, or

(b) a rate that otherwise contravenes this Act, the regulations, orders of the commission or any other law.

(2) A public utility must not

(a) as to rate or service, subject any person or locality, or a particular description of traffic, to an undue prejudice or disadvantage, or

(b) extend to any person a form of agreement, a rule or a facility or privilege, unless the agreement, rule, facility or privilege is regularly and uniformly extended to all persons under substantially similar circumstances and conditions for service of the same description.

(3) The commission may, by regulation, declare the circumstances and conditions that are substantially similar for the purpose of subsection (2) (b).

(4) It is a question of fact, of which the commission is the sole judge,

(a) whether a rate is unjust or unreasonable,

(b) whether, in any case, there is undue discrimination, preference, prejudice or disadvantage in respect of a rate or service, or

(c) whether a service is offered or provided under substantially similar circumstances and conditions.

(5) In this section, a rate is "unjust" or "unreasonable" if the rate is

(a) more than a fair and reasonable charge for service of the nature and quality provided by the utility,

(b) insufficient to yield a fair and reasonable compensation for the service provided by the utility, or a fair and reasonable return on the appraised value of its property, or

(c) unjust and unreasonable for any other reason.

Setting of rates

60 (1) In setting a rate under this Act

(a) the commission must consider all matters that it considers proper and relevant affecting the rate,

(b) the commission must have due regard to the setting of a rate that

(i) is not unjust or unreasonable within the meaning of section 59,

(ii) provides to the public utility for which the rate is set a fair and reasonable return on any expenditure made by it to reduce energy demands, and

(iii) encourages public utilities to increase efficiency, reduce costs and enhance performance,

(b.1) the commission may use any mechanism, formula or other method of setting the rate that it considers advisable, and may order that the rate derived from such a mechanism, formula or other method is to remain in effect for a specified period, and

(c) if the public utility provides more than one class of service, the commission must

(i) segregate the various kinds of service into distinct classes of service,

(ii) in setting a rate to be charged for the particular service provided, consider each distinct class of service as a self contained unit, and

(iii) set a rate for each unit that it considers to be just and reasonable for that unit, without regard to the rates set for any other unit.

(2) In setting a rate under this Act, the commission may take into account a distinct or special area served by a public utility with a view to ensuring, so far as the commission considers it advisable, that the rate applicable in each area is adequate to yield a fair and reasonable return on the appraised value of the plant or system of the public utility used, or prudently and reasonably acquired, for the purpose of providing the service in that special area.

(3) If the commission takes a special area into account under subsection (2), it must have regard to the special considerations applicable to an area that is sparsely settled or has other distinctive characteristics.

(4) For this section, the commission must exclude from the appraised value of the property of the public utility any franchise, licence, permit or concession obtained or held by the utility from a municipal or other public authority beyond the money, if any, paid to the municipality or public authority as consideration for that franchise, licence, permit or concession, together with necessary and reasonable expenses in procuring the franchise, licence, permit or concession.

Rate schedules to be filed with commission

61 (1) A public utility must file with the commission, under rules the commission specifies and within the time and in the form required by the commission, schedules showing all rates established by it and collected, charged or enforced or to be collected or enforced.

(2) A schedule filed under subsection (1) must not be rescinded or amended without the commission's consent.

(3) The rates in schedules as filed and as amended in accordance with this Act and the regulations are the only lawful, enforceable and collectable rates of the public utility filing them, and no other rate may be collected, charged or enforced.

(4) A public utility may file with the commission a new schedule of rates that the utility considers to be made necessary by a change in the price, over which the utility has no effective control, required to be paid by the public utility for its gas supplies, other energy supplied to it, or expenses and taxes, and the new schedule may be put into effect by the public utility on receiving the approval of the commission.

(5) Within 60 days after the date it approves a new schedule under subsection (4), the commission may,

(a) on complaint of a person whose interests are affected, or

(b) on its own motion,

direct an inquiry into the new schedule of rates having regard to the setting of a rate that is not unjust or unreasonable.

(6) After an inquiry under subsection (5), the commission may

(a) rescind or vary the increase and order a refund or customer credit by the utility of all or part of the money received by way of increase, or

(b) confirm the increase or part of it.

Schedules must be available to public

62 A public utility must keep a copy of the schedules filed open to and available for public inspection under commission rules.

Schedules must be observed

63 A public utility must not, without the consent of the commission, directly or indirectly, in any way charge, demand, collect or receive from any person for a regulated service provided by it, or to be provided by it, compensation that is greater than, less than or other than that specified in the subsisting schedules of the utility applicable to that service and filed under this Act.

Orders respecting contracts

64 (1) If the commission, after a hearing, finds that under a contract entered into by a public utility a person receives a regulated service at rates that are unduly preferential or discriminatory, the commission may

(a) declare the contract unenforceable, either wholly or to the extent the commission considers proper, and the contract is then unenforceable to the extent specified, or

(b) make any other order it considers advisable in the circumstances.

(2) If a contract is declared unenforceable either wholly or in part, the commission may order that rights accrued before the date of the order be preserved, and those rights may then be enforced as fully as if no proceedings had been taken under this section.

Part 3.1

Repealed

64.01-64.04 [Repealed 2010-22-69.]

Part 4 — Carriers, Purchasers and Processors

Definition

64.1 In this Part, "sufficient notice" means notice in the manner and form, within the period, with the content and by the person required by the commission.

Common carrier

65 (1) In this section, "common carrier" means a person declared to be a common carrier by the commission under subsection (2) (a).

(2) On application by an interested person and after a hearing, sufficient notice of which has been given to all persons the commission believes may be affected, the commission may

(a) issue an order, to be effective on a date determined by it, declaring a person who owns or operates a pipeline for the transportation of

(i) one or more of crude oil, natural gas and natural gas liquids, or

(ii) any other type of energy resource prescribed by the Lieutenant Governor in Council,

to be a common carrier with respect to the operation of the pipeline, and

(b) in the order establish the conditions under which the common carrier must accept and carry energy resources.

(3) On application by a person that uses or seeks to use facilities operated by a common carrier, the commission, by order and after a hearing, sufficient notice of which has been given to all persons the commission believes may be affected, may establish the conditions under which the common carrier must accept and carry crude oil, natural gas, natural gas liquids or prescribed energy resources referred to in subsection (2) (a).

(3.1) Without limiting subsection (2) (b) or (3), the commission may establish conditions with respect to a common carrier in relation to any of the following matters:

(a) a toll that may be charged by the common carrier;

(b) extensions, improvements or abandonment of service.

(3.2) The commission may order that section 43 applies with respect to a common carrier as though the common carrier were a public utility referred to in that section.

(4) A common carrier must not unreasonably discriminate

(a) between itself and persons who apply to the common carrier to transport, in its pipeline, crude oil, natural gas, natural gas liquids or prescribed energy resources referred to in subsection (2) (a) (ii), or

(b) among the persons who so apply.

(5) A common carrier must comply with the conditions in any order applicable to the common carrier that is made under this section.

(6) The commission may, by order and after a hearing, sufficient notice of which has been given to all persons the commission believes may be affected, vary an order made under this section.

(7) If an agreement between a common carrier and another person

(a) is made before an order is made under this section, and

(b) is inconsistent with the conditions established by the commission in an order made under this section, the commission may, in the order or in a subsequent order, after a hearing, sufficient notice of which has been given to all persons the commission believes may be affected, vary the agreement between the parties to eliminate the inconsistency.

(8) Subject to subsection (9), if an agreement is varied under subsection (7), the common carrier and the commission are not liable for damages suffered as a result of that variation by the other party to the agreement.

(9) Subsection (8) does not apply to a common carrier referred to in that subsection in relation to anything done or omitted by that person in bad faith.

Common purchaser

66 (1) In this section, "common purchaser" means a person declared to be a common purchaser by the commission under subsection (2).

(2) On application by an interested person and after a hearing, sufficient notice of which has been given to persons the commission believes may be affected, the commission may issue an order, to be effective on a date determined by it, declaring a person who purchases or otherwise acquires, from a pool designated by the commission, crude oil, natural gas or natural gas liquids to be a common purchaser of the crude oil, natural gas or natural gas liquids.

(3) On application by a person whose crude oil, natural gas or natural gas liquids is or will be purchased by a common purchaser, the commission, by order and after a hearing, sufficient notice of which has been given to all persons the commission believes may be affected, may establish the conditions under which the common purchaser must purchase crude oil, natural gas or natural gas liquid.

(4) A common purchaser must not unreasonably discriminate

(a) between itself and persons who apply for the services offered by the common purchaser, or

(b) among the persons who so apply.

- (5) A common purchaser must comply with the conditions in any order applicable to the common purchaser that is made under this section.
- (6) The commission may, by order and after a hearing, sufficient notice of which has been given to all persons the commission believes may be affected, vary an order made under this section.
- (7) If an agreement between a common purchaser and another person
- (a) is made before an order is made under this section, and
- (b) is inconsistent with the conditions established by the commission in an order made under this section, the commission may, in the order or in a subsequent order, after a hearing, sufficient notice of which has been given to all persons the commission believes may be affected, vary the agreement between the parties to eliminate the inconsistency.
- (8) Subject to subsection (9), if an agreement is varied under subsection (7), the common purchaser and the commission are not liable for damages suffered as a result of that variation by the other party to the agreement.
- (9) Subsection (8) does not apply to a common purchaser referred to in that subsection in relation to anything done or omitted by that person in bad faith.

Common processor

67 (1) In this section, "common processor" means a person declared to be a common processor by the commission under subsection (2).

- (2) On application by an interested person and after a hearing, sufficient notice of which has been given to all persons the commission believes may be affected, the commission may issue an order, to be effective on a date determined by it, declaring the person that owns or operates a plant for processing natural gas to be a common processor of natural gas.
- (3) On application by a person that uses or seeks to use facilities operated by a common processor, the commission, by order and after a hearing, sufficient notice of which has been given to all persons the commission believes may be affected, may establish the conditions under which the common processor must accept and process natural gas.
- (4) A common processor must not unreasonably discriminate
- (a) between itself and persons who apply for the services offered by the common processor, or
- (b) among the persons who so apply.
- (5) A common processor must comply with the conditions in any order applicable to the common processor made under this section.
- (6) The commission may, by order and after a hearing, sufficient notice of which has been given to all persons the commission believes may be affected, vary an order made under this section.
- (7) If an agreement between a common processor and another person
- (a) is made before an order is made under this section, and
- (b) is inconsistent with the conditions established by the commission in an order made under this section, the commission may, in the order or a subsequent order, after a hearing, sufficient notice of which has been given to all persons the commission believes may be affected, vary the agreement between the parties to eliminate the inconsistency.
- (8) Subject to subsection (9), if an agreement is varied under subsection (7), the common processor and the commission are not liable for damages suffered as a result of that variation by the other party to the agreement.
- (9) Subsection (8) does not apply to a common processor referred to in that subsection in relation to anything done or omitted by that person in bad faith.

Part 5 — Electricity Transmission

Definitions

68 In this Part:

"electricity transmission facilities" means conductors, circuits, transmission towers, substations, switching stations, transformers and any other equipment or facilities that are necessary for the purpose of transmitting electricity;

"energy" means electricity or natural gas;

"energy supply contract" means a contract under which energy is sold by a seller to a public utility or another buyer, and includes an amendment of that contract, but does not include a contract in respect of which a schedule is approved under section 61 of this Act;

"gas marketer" means a person who holds a gas marketer licence issued under section 71.1 (6) (a);

"low-volume consumer" has the meaning ascribed to it under rules made by the commission under section 71.1 (10);

"natural gas" means any methane, propane or butane that is sold for consumption as a domestic, commercial or industrial fuel or as an industrial raw material;

"public utility" means a public utility to which Part 3 applies;

"seller" means a person who sells or trades in energy.

Repealed

69 [Repealed 2003-46-10.]

Use of electricity transmission facilities

70 (1) On application and after a hearing, the commission may make an order directing a public utility to allow a person, other than a public utility, to use the electricity transmission facilities of the public utility if the commission finds that

(a) the person and the public utility have failed to agree on the use of the facilities or on the conditions or compensation for their use,

(b) the use of the facilities will not prevent the public utility or other users from performing their duties or result in any substantial detriment to their service, and

(c) the public interest requires the use of the facilities by the person.

(2) An order under subsection (1) may contain terms and conditions the commission considers advisable, including terms and conditions respecting the rates payable to the public utility for the use of its electricity transmission facilities.

(3) After a hearing, the commission may, by order, vary or rescind an order made under this section.

(4) Any interested person may apply to the commission for an order under this section, and the application must contain the information the commission specifies.

Energy supply contracts

71 (1) Subject to subsection (1.1), a person who, after this section comes into force, enters into an energy supply contract must

(a) file a copy of the contract with the commission under rules and within the time it specifies, and

(b) provide to the commission any information it considers necessary to determine whether the contract is in the public interest.

(1.1) Subsection (1) does not apply to an energy supply contract for the sale of natural gas unless the sale is to a public utility.

(2) The commission may make an order under subsection (3) if the commission, after a hearing, determines that an energy supply contract to which subsection (1) applies is not in the public interest.

(2.1) In determining under subsection (2) whether an energy supply contract filed by a public utility other than the authority is in the public interest, 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 energy supply contract is consistent with the applicable requirements under sections 6 and 19 of the Clean Energy Act,

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

(e) the quantity of the energy to be supplied under the contract,

(f) the availability of supplies of the energy referred to in paragraph (e),

(g) the price and availability of any other form of energy that could be used instead of the energy referred to in paragraph (e), and

(h) in the case only of an energy supply contract that is entered into by a public utility, the price of the energy referred to in paragraph (e).

(2.2) Subsection (2.1) (a) to (c) does not apply if the commission considers that the matters addressed in the energy supply contract filed under subsection (1) were determined to be in the public interest in the course of considering a long-term resource plan under section 44.1.

(2.21) In determining under subsection (2) whether an energy supply contract filed by the authority is in the public interest, 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) an applicable integrated resource plan approved under section 4 of the Clean Energy Act,

(c) the extent to which the energy supply contract is consistent with the requirements under section 19 of the Clean Energy Act,

(d) the quantity of the energy to be supplied under the contract,

(e) the availability of supplies of the energy referred to in paragraph (d),

(f) the price and availability of any other form of energy that could be used instead of the energy referred to in paragraph (d), and

(g) in the case only of an energy supply contract that is entered into by a public utility, the price of the energy referred to in paragraph (d).

(2.3) A public utility may submit to the commission a proposed energy supply contract setting out the terms and conditions of the contract and a process the public utility intends to use to acquire power from other persons in accordance with those terms and conditions.

(2.4) If satisfied that it is in the public interest to do so, the commission, by order, may approve a proposed contract submitted under subsection (2.3) and a process referred to in that subsection.

(2.5) In considering the public interest under subsection (2.4) with respect to a submission 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,

(c) the extent to which the application for the proposed contract is consistent with the applicable requirements under sections 6 and 19 of the Clean Energy Act, and

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

(2.51) In considering the public interest under subsection (2.4) with respect to a submission 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) an applicable integrated resource plan approved under section 4 of the Clean Energy Act, and

(c) the extent to which the application for the proposed contract is consistent with the requirements under section 19 of the Clean Energy Act.

(2.6) If the commission issues an order under subsection (2.4), the commission may not issue an order under subsection (3) with respect to a contract

(a) entered into exclusively on the terms and conditions, and

(b) as a result of the process referred to in subsection (2.3).

(3) If subsection (2) applies, the commission may

(a) by order, declare the contract unenforceable, either wholly or to the extent the commission considers proper, and the contract is then unenforceable to the extent specified, or

(b) make any other order it considers advisable in the circumstances.

(4) If an energy supply contract is, under subsection (3) (a), declared unenforceable either wholly or in part, the commission may order that rights accrued before the date of the order under that subsection be preserved, and those rights may then be enforced as fully as if no proceedings had been taken under this section.

(5) An energy supply contract or other information filed with the commission under this section must be made available to the public unless the commission considers that disclosure is not in the public interest.

Gas marketers

71.1 (1) A person must not perform a gas marketing activity within the meaning of subsection (2) unless

- (a) the person is a public utility and the public utility performs the gas marketing activity within any area in which it is authorized to provide service, or
- (b) the person holds a gas marketer licence issued to the person under subsection (6) (a).
- (2) For the purposes of subsection (1), a person performs a gas marketing activity if the person
 - (a) sells or offers to sell natural gas to a low-volume consumer,
 - (b) acts as the agent or broker for a seller in a sale of natural gas to a low-volume consumer, or
 - (c) acts or offers to act as the agent or broker of a low-volume consumer in a purchase of natural gas.
- (3) A gas marketer must comply with the commission rules issued under subsection (10) and the terms and conditions, if any, attached to the gas marketer licence held by the gas marketer.
- (4) A gas marketer must not carry on or offer to carry on business as a gas marketer in a name other than the name in which it is licensed unless authorized to do so in the licence.
- (5) If a person is not in compliance with subsection (1), (3) or (4), the commission may do one or more of
 - (a) declare an energy supply contract between the person and a low-volume consumer unenforceable, either wholly or to the extent the commission considers proper, in which event the contract is enforceable to the extent specified, and
 - (b) if the person is a gas marketer,
 - (i) amend the terms and conditions of, or impose new terms and conditions on, the gas marketer licence, and
 - (ii) suspend or cancel the gas marketer licence.
- (5.1) If the commission, under subsection (5) (a), declares an energy supply contract to be unenforceable, either wholly or in part, the commission may also order the person to pay to the low-volume consumer some or all of the money paid under the contract by the low-volume consumer.
- (6) The commission may
 - (a) on application, issue a gas marketer licence to any person who is not a public utility,
 - (b) impose, in respect of any gas marketer licence issued by the commission, terms and conditions that the commission considers appropriate,
 - (c) amend any of the terms and conditions imposed in respect of a gas marketer licence, and
 - (d) suspend or cancel a gas marketer licence.
- (7) The commission may require, as a condition of granting a gas marketer licence, that the gas marketer post security in a form, and in accordance with such terms and conditions, as the commission considers appropriate.
- (8) The commission may order that some or all of the security posted by a gas marketer in accordance with a requirement imposed under subsection (7) be paid out to those persons who the commission considers have been or may be affected by an act or omission of the gas marketer.
- (9) Sections 42 and 43 apply to each gas marketer as if that gas marketer were a public utility.
- (10) The commission may make the following rules:
 - (a) defining "low-volume consumer";
 - (b) respecting the process by which application may be made for a gas marketer licence and specifying the form and content of applications for that licence;
 - (c) respecting the imposition of terms and conditions on gas marketer licences;
 - (d) requiring an applicant for a gas marketer licence to obtain a bond, letter of credit or other specified security and requiring the filing with the commission of proof, satisfactory to the commission, of that security;
 - (e) respecting the form and content of security that may be required under paragraph (d) and the person by whom and the terms on which it is to be held;
 - (f) respecting the circumstances in which and the persons to whom disbursement of some or all of the security required under paragraph (d) is to be made.

Part 6 — Commission Jurisdiction

Jurisdiction of commission to deal with applications

72 (1) The commission has jurisdiction to inquire into, hear and determine an application by or on behalf of any party interested, complaining that a person constructing, maintaining, operating or controlling a public utility service or charged with a duty or power relating to that service, has done, is doing or has failed to do anything required by this Act or another general or special Act, or by a regulation, order, bylaw or direction made under any of them.

(2) The commission has jurisdiction to inquire into, hear and determine an application by or on behalf of any party interested, requesting the commission to

(a) give a direction or approval which by law it may give, or

(b) approve, prohibit or require anything to which by any general or special Act, the commission's jurisdiction extends.

Mandatory and restraining orders

73 (1) The commission may order and require a person to do immediately or by a specified time and in the way ordered, so far as is not inconsistent with this Act, the regulations or another Act, anything that the person is or may be required or authorized to do under this Act or any other general or special Act and to which the commission's jurisdiction extends.

(2) The commission may forbid and restrain the doing or continuing of anything contrary to or which may be forbidden or restrained under any Act, general or special, to which the commission's jurisdiction extends.

Inspections

74 For the purposes of this Act, a person authorized in writing by the commission may

(a) enter on and inspect property, and

(a.1) inspect and make copies of records.

(b) [Repealed 2012-27-33.]

Commission not bound by precedent

75 The commission must make its decision on the merits and justice of the case, and is not bound to follow its own decisions.

Jurisdiction as to liquidators and receivers

76 (1) The fact that a liquidator, receiver, manager or other official of a public utility, or other person engaged in the petroleum industry, or a person seizing a public utility's property has been appointed by a court in British Columbia, or is acting under the authority of a court, does not prevent the exercise by the commission of any jurisdiction conferred by this Act.

(2) A liquidator, receiver, manager, official or person seizing must act in accordance with this Act and the orders and directions of the commission, whether the orders are general or particular.

(3) The liquidator or other person referred to in subsection (1), and any person acting under that person, must obey the orders of the commission, within its jurisdiction, and the commission may enforce its orders against the person even though the person is appointed by or acts under the authority of a court.

Power to extend time

77 If a work, act, matter or thing is, by order or decision of the commission, required to be performed or completed within a specified time, the commission may, if the circumstances of the case in its opinion so require, extend the time so specified

(a) on notice and hearing, or

(b) in its discretion, on application, without notice to any person.

Evidence

78 (1) [Repealed 2004-45-169.]

(2) An inquiry that the commission considers necessary may be made by a member or officer or by a person appointed by the commission to make the inquiry, and the commission may act on that person's report.

(3) Each member, officer and person appointed has, for the purpose of the inquiry, the powers referred to in section 74 of this Act and section 34 (3) and (4) of the Administrative Tribunals Act.

(4) If a person is appointed to inquire and report on a matter, the commission may order by whom, and in what proportion, the costs incurred must be paid, and may set the amount of the costs.

Findings of fact conclusive

79 The determination of the commission on a question of fact in its jurisdiction, or whether a person is or is not a party interested within the meaning of this Act, is binding and conclusive on all persons and all courts.

Commission not bound by judicial acts

80 In determining a question of fact, the commission is not bound by the finding or order of a court in a proceeding involving the determination of that fact, and the finding or order is, before the commission, evidence only.

Pending litigation

81 The fact that a suit, prosecution or other proceeding in a court involving questions of fact is pending does not deprive the commission of jurisdiction to hear and determine the same questions of fact.

Power to inquire without application

82 (1) The commission

(a) may, on its own motion, and

(b) must, on the request of the Lieutenant Governor in Council,

inquire into, hear and determine a matter that under this Act it may inquire into, hear or determine on application or complaint.

(2) For the purpose of subsection (1), the commission has the same powers as are vested in it by this Act in respect of an application or complaint.

Action on complaints

83 If a complaint is made to the commission, the commission has powers to determine whether a hearing or inquiry is to be had, and generally whether any action on its part is or is not to be taken.

General powers not limited

84 The enumeration in this Act of a specific commission power or authority does not exclude or limit other powers or authorities given to the commission.

Hearings to be held in certain cases

85 (1) Except in case of urgency, of which the commission is sole judge, the commission must not, without a hearing, make an order involving an outlay, loss or deprivation to a public utility.

(2) If an order is made in case of urgency without a hearing, on the application of a person interested, the commission must as soon as practicable hear and reconsider the matter and make any further order it considers advisable.

Public hearing

86 If this Act requires that a hearing be held, it must be a public hearing whenever, in the opinion of the commission or the Lieutenant Governor in Council, a public hearing is in the public interest.

Repealed

86.1 [Repealed 2004-45-170.]

When oral hearings not required

86.2 (1) Despite any other provision of this Act, in any circumstance in which, under this Act, a hearing may or must be held, the commission may conduct a written hearing.

(2) The commission may make rules respecting the circumstances in which and the process by which written hearings may be conducted and specifying the form and content of materials to be provided for written hearings.

Recitals not required in orders

87 In making an order, the commission is not required to recite or show on the face of the order the taking of any proceeding, the giving of any notice or the existence of any circumstance necessary to give the commission jurisdiction.

Application of orders

88 (1) In making an order, rule or regulation, the commission may make it apply to all cases, or to a particular case or class of cases, or to a particular person.

(2) The commission may exempt a person from the operation of an order, rule or regulation made under this Act for a time the commission considers advisable.

(3) The commission may, on conditions it considers advisable, with the advance approval of the minister responsible for the administration of the Hydro and Power Authority Act, exempt a person, equipment or facilities from the application of all or any of the provisions of this Act or may limit or vary the application of this Act.

(4) The commission has no power under this section to make an order respecting a person, or a person in respect of a matter, who has been exempted under section 22.

Withdrawal of application

88.1 If an applicant withdraws all or part of an application or the parties advise the commission that they have reached a settlement of all or part of an application, the commission may order that the application or part of it is dismissed.

Partial relief

89 On an application under this Act, the commission may make an order granting the whole or part of the relief applied for or may grant further or other relief, as the commission considers advisable.

Commencement of orders

90 (1) In an order or regulation, the commission may direct that the order or regulation or part of it comes into operation

(a) at a future time,

(b) on the happening of an event specified in the order or regulation, or

(c) on the performance, to the satisfaction of the commission, by a person named by it of a term imposed by the order.

(2) The commission may, in the first instance, make an interim order, and reserve further direction for an adjourned hearing or further application.

Orders without notice

91 (1) If the special circumstance of a case so requires, the commission may, without notice, make an interim order authorizing, requiring or forbidding anything to be done that the commission is empowered to authorize, require or forbid on application, notice or hearing.

(2) The commission must not make an interim order under subsection (1) for a longer time than it considers necessary for a hearing and decision.

(3) A person interested may, before final decision, apply to modify or set aside an interim order made without notice.

Directions

92 If, in the exercise of a commission power under an Act, the commission directs that a structure, appliance, equipment or works be provided, constructed, reconstructed, removed, altered, installed, operated, used or maintained, the commission may, except as otherwise provided in the Act conferring the power, order

(a) by what person interested at or within what time,

(b) at whose cost and expense,

(c) on what terms including payment of compensation, and

(d) under what supervision,

the structure, appliance, equipment or works must be carried out.

Repealed

93-94 [Repealed 2004-45-170.]

Lien on land

95 (1) If the commission makes an order for payment of money, costs or a penalty, the commission may register a copy of the order certified by the commission's secretary in a land title office.

(2) On registration in a land title office, an order is a lien and charge on all the land of the person ordered to make the payment that is in the land title district in which the order is registered, to the same extent and with

the same effect and realizable in the same way as a judgment of the Supreme Court under the Court Order Enforcement Act.

Substitute to carry out orders

96 (1) If a person defaults in doing anything directed by an order of the commission under this Act,

(a) the commission may authorize a person it considers suitable to do the thing, and

(b) the person authorized may do the thing authorized and may recover from the person in default the expense incurred in doing the thing, as money paid for and at the request of that person.

(2) The certificate of the commission of the amount expended is conclusive evidence of the amount of the expense.

Entry, seizure and management

97 (1) The commission may take the steps and employ the persons it considers necessary to enforce an order made by it, and, for that purpose, may forcibly or otherwise enter on, seize and take possession of the whole or part of the business and the property of a public utility affected by the order, together with the records, offices and facilities of the utility.

(2) The commission may, until the order has been enforced or until the Lieutenant Governor in Council otherwise orders, assume, take over and continue the management of the business and property of the utility in the interest of its shareholders, creditors and the public.

(3) While the commission continues to manage or direct the management of the utility, the commission may exercise, for the business and property, the powers, duties, rights and functions of the directors, officers or managers of the utility in all respects, including the employment and dismissal of officers or employees and the employment of others.

(4) On the commission taking possession of the business and property of the utility, each officer and employee of the utility must obey the lawful orders and instructions of the commission for that business and property, and of any person placed by the commission in authority in the management of the utility or a department of its undertaking or service.

(5) On taking possession of the business and property of a public utility, the commission may determine, receive or pay out all money due to or owing by the utility, and give cheques and receipts for money to the same extent and to the same effect as the utility or its officers or employees could do.

(6) The costs incurred by the commission under this section are in the discretion of the commission, and the commission may order by whom and in what amount or proportion costs are to be paid.

Defaulting utility may be dissolved

98 (1) If a public utility incorporated under an Act of the Legislature fails to comply with a commission order, and the commission believes that no effective means exist to compel the utility to comply, the commission, in its discretion, may transmit to the Attorney General a certificate, signed by its chair and secretary, setting out the nature of the order and the default of the public utility.

(2) Ten days after publication in the Gazette of a notice of receipt of the certificate by the Attorney General, the Lieutenant Governor in Council may, by order, dissolve the public utility.

Part 7 — Decisions and Appeals

Reconsideration

99 The commission, on application or on its own motion, may reconsider a decision, an order, a rule or a regulation of the commission and may confirm, vary or rescind the decision, order, rule or regulation.

Requirement for hearing

100 If a hearing is held or required under this Act before a rule or regulation is made, the rule or regulation must not be altered, suspended or revoked without a hearing.

Appeal to Supreme Court or Court of Appeal

101 (1) An appeal lies from

(a) a decision of the commission under section 109.1 or 109.2 to the Supreme Court, and

(b) any other decision or order of the commission to the Court of Appeal, with leave of a justice of that court.

- (2) The party appealing under subsection (1) (b) must give notice of the application for leave to appeal, stating the grounds of appeal, to the commission, to the Attorney General and to any party adverse in interest, at least 2 clear days before the hearing of the application.
- (3) If leave is granted under subsection (1) (b), within 15 days from the granting, the appellant must give notice of appeal to the commission, to the Attorney General, and to any party adverse in interest.
- (4) The commission and the Attorney General may be heard on an appeal under subsection (1) (b).
- (4.1) The commission has full party status on an appeal under subsection (1) (a).
- (5) [Repealed 2012-27-36.]

Stay on appeal

102 (1) An appeal to the Court of Appeal does not of itself stay or suspend the operation of the decision, order, rule or regulation appealed from, but the Court of Appeal may grant a suspension, in whole or in part, until the appeal is decided, on the terms the court considers advisable.

- (2) The commission may, in its discretion, suspend the operation of its decision, order, rule or regulation from which an appeal is taken under section 101 (1) (b) until the decision of the Court of Appeal is given.
- (3) An appeal to the Supreme Court under section 101 (1) (a) operates as a stay of the decision under section 109.2 to impose an administrative penalty, unless the court orders otherwise.

Costs of appeal

103 (1) [Repealed 2012-27-38.]

- (2) Neither the commission nor an officer, employee or agent of the commission is liable for costs in respect of an application or appeal referred to in section 101.

Case stated by commission

104 (1) The commission may, on its own motion or on the application of a party who gives the security the commission directs, and must, on the request of the Attorney General, state a case in writing for the opinion of the Court of Appeal on a question that, in the opinion of the commission or of the Attorney General, is a question of law.

- (2) The Court of Appeal must hear and determine all questions of law arising on the stated case and must remit the matter to the commission with the court's opinion.

(3) [Repealed 2012-27-39.]

Jurisdiction of commission exclusive

105 (1) The commission has exclusive jurisdiction in all cases and for all matters in which jurisdiction is conferred on it by this or any other Act.

- (2) Unless otherwise provided in this Act, an order, decision or proceeding of the commission must not be questioned, reviewed or restrained by or on an application for judicial review or other process or proceeding in any court.

Part 8 — Offences and Penalties

Offences

106 (1) The following persons commit an offence:

- (a) a person who fails or refuses to obey an order of the commission made under this Act;
- (b) a person who does, causes or permits to be done an act, matter or thing contrary to this Act or omits to do an act, matter or thing required to be done by this Act;
- (c) a public utility
- (i) that fails or refuses to prepare and provide to the commission in the time, manner and form, and with the particulars and verification required under this Act, an information return, the answer to a question submitted by the commission or information required by the commission under this Act,
- (ii) that wilfully or negligently makes a return or provides information to the commission that is false in any particular,
- (iii) that gives, or an officer of which gives, to an officer, agent, manager or employee of the utility a direction, instruction or request to do or refrain from doing an act referred to in paragraph (d) (i) to (vii) and in respect of which the officer, agent, manager or employee is convicted under paragraph (d) (i) to (vii), or
- (iv) an officer, agent, manager or employee of which is convicted of an offence under paragraph (d) (viii);

- (d) an officer, agent, manager or employee of a public utility
 - (i) who fails or refuses to complete and provide to the commission a report or form of return required under this Act,
 - (ii) who fails or refuses to answer a question contained in a report or form of return required under this Act,
 - (iii) who wilfully gives a false answer to a question contained in a report or form of return required under this Act,
 - (iv) who evades a question or gives an evasive answer to a question contained in a report or form of return required under this Act, if the person has the means to ascertain the facts,
 - (v) who, after proper demand under this Act, fails or refuses to exhibit to the commission or a person authorized by it an account, record or memorandum of the public utility that is in the person's possession or under the person's control,
 - (vi) who fails to properly use and keep the system of accounting of the public utility specified by the commission under this Act,
 - (vii) who refuses to do any act or thing in that system of accounting when directed by the commission or its representative,
 - (viii) on whom the commission serves notice directing the person to provide to the commission information or a return that the utility may be required to provide under this Act and who wilfully refuses or fails to provide the information or return to the best of the person's knowledge, or means of knowledge, in the manner and time directed by the commission, or
 - (ix) who knowingly registers or causes to be registered on the books of the public utility any issue or transfer of shares that has been made contrary to section 54 (5), (7) or (8);
 - (e) the president, and each vice president, director, managing director, superintendent and manager of a public utility that fails or refuses to obey an order of the commission made under this Act;
 - (f) the mayor and each councillor or member of the ruling body of a municipality that fails or refuses to obey an order of the commission made under this Act;
 - (g) [Repealed 2003-46-15.]
 - (h) a person who obstructs or interferes with a commissioner, officer or person in the exercise of rights conferred or duties imposed under this Act;
 - (i) a person who knowingly solicits, accepts or receives, directly or indirectly, a rebate, concession or discrimination for service of a public utility, if the service is provided or received in violation of this Act;
 - (j) except so far as the person's public duty requires the person to report on or take official action, an officer or employee of the commission, or person having access to or knowledge of a return made to the commission or of information procured or evidence taken under this Act, other than a public inquiry or public hearing, who, without first obtaining the authority of the commission, publishes or makes known information, having obtained or knowing it to have been derived from the return, information or evidence;
 - (k) a person who applies to a public utility to register on its books any issue or transfer of shares that has been made contrary to section 54 (5), (7) or (8).
- (2) Subsection (1) (e) and (f) does not apply if the person proves
- (a) that, according to the person's position and authority, the person took all necessary and proper means in the person's power to obey and carry out, and to procure obedience to and the carrying out of the order, and
 - (b) that the person was not at fault for the failure or refusal.
- (3) Subsection (1) (h) does not apply if the commissioner, officer or person does not, on request at the time, produce a certificate of his or her appointment or authority.
- (4) A person convicted of an offence under this section is liable to a penalty not greater than \$1 000 000.
- (5) If this Act makes anything an offence, each day the offence continues constitutes a separate offence.
- (6) Subject to section 109.2 (4), nothing in or done under this section affects the liability of a public utility otherwise existing or prejudices enforcement of an order of the commission in any way otherwise available.
- (7) If the commission imposes on a person an administrative penalty under section 109.2, a prosecution for an offence under this Act for the same contravention may not be brought against the person.

Restraining orders

107 If a person contravenes a term, condition or requirement of

- (a) a regulation under section 22,
- (b) a certificate of public convenience and necessity issued under section 46,
- (c) an approval under section 50 or 54 (5), (7) or (8),
- (d) an order under section 53 or 54 (10), or

(e) a reliability standard adopted under section 125.2,
the contravention may be restrained in a proceeding brought by the minister in the Supreme Court.

Repealed

108 [Repealed 2012-27-42.]

Remedies not mutually exclusive

109 Subject to sections 106 (7) and 109.2 (4), if a person contravenes anything referred to in section 107, the remedies and penalties for the contravention are not mutually exclusive, and any or all of them may be applied in any one case.

Part 8.1 — Administrative Penalties

Contraventions

109.1 (1) After giving a person an opportunity to be heard, the commission, for the purposes of section 109.2, may find that the person has contravened a provision of

(a) this Act or the regulations, or

(b) an order, standard or rule of the commission or a reliability standard adopted by the commission.

(2) If a corporation contravenes a provision referred to in subsection (1), a director, officer or agent of the corporation who authorized, permitted or acquiesced in the contravention also contravenes the provision.

(3) Without limiting section 112, if an employee, contractor or agent of a corporation contravenes a provision referred to in subsection (1) of this section in the course of carrying out the employment, contract or agency, the corporation also contravenes the provision.

(4) The commission may not find that a person has contravened a provision referred to in subsection (1) if the person demonstrates to the satisfaction of the commission that

(a) the person exercised due diligence to prevent the contravention, or

(b) the person's actions or omissions relevant to the provision were the result of an officially induced error.

(5) Nothing in subsection (4) prevents the commission from doing anything else that the commission is authorized to do under this Act with respect to an act or omission by the person.

(6) If a person referred to in subsection (2) or (3) has not contravened a provision referred to in subsection (1) as a result of demonstrating to the satisfaction of the commission anything referred to in subsection (4), the commission may find, subject to subsection (4), that any of the other persons referred to in subsection (2) or (3) have contravened the provision.

(7) A person does not contravene a provision referred to in subsection (1) by doing or omitting to do something if that act or omission is reasonably necessary to conform to the requirements of the Workers Compensation Act or any regulations under that Act.

Administrative penalties

109.2 (1) If the commission finds that a person has contravened a provision referred to in section 109.1 (1), the commission may impose an administrative penalty on the person in an amount that does not exceed the prescribed limit.

(2) If a contravention of a prescribed provision occurs over more than one day or continues for more than one day, separate administrative penalties, each not exceeding the prescribed limit for the purposes of subsection (1), may be imposed for each day the contravention continues.

(3) Before the commission imposes an administrative penalty on a person, the commission, in addition to considering anything else the commission considers relevant, must consider the following:

(a) previous contraventions by, administrative penalties imposed on and orders issued to the following:

(i) the person;

(ii) if the person is an individual, a corporation for which the individual is or was a director, officer or agent;

(iii) if the person is a corporation, an individual who is or was a director, officer or agent of the corporation;

(b) the gravity and magnitude of the contravention;

(c) the extent of the harm to others resulting from the contravention;

(d) whether the contravention was repeated or continuous;

(e) whether the contravention was deliberate;

(f) any economic benefit derived by the person from the contravention;

(g) the person's efforts to prevent and correct the contravention;

- (h) the cost of compliance with the provision contravened;
- (i) whether the person self-reported the contravention;
- (j) the degree and quality of cooperation during the commission's investigation;
- (k) any undue hardship that might arise from the amount of the penalty;
- (l) any other matters prescribed by the Lieutenant Governor in Council.

(4) If a person is charged with an offence under this Act, an administrative penalty may not be imposed on the person in respect of the same circumstances that gave rise to the charge.

Notice of contravention or penalty

109.3 (1) If the commission finds under section 109.1 that a person has contravened a provision referred to in that section or imposes under section 109.2 an administrative penalty on a person, the commission must give to the person a notice of the decision, and the notice must include reasons for the decision and specify the following:

- (a) the contravention;
 - (b) the amount of the penalty, if any;
 - (c) the date by which the penalty, if any, must be paid;
 - (d) the person's right, with respect to the decision, to apply for a reconsideration under section 99 or to appeal it under section 101;
 - (e) an address to which a request for a reconsideration under section 99 may be sent.
- (2) If the commission imposes an administrative penalty on a person, the commission may make public the reasons for and the amount of the penalty.

Due date of penalty

109.4 A person on whom an administrative penalty is imposed under section 109.2 must pay the penalty

- (a) within 30 days after the date on which the notice referred to in section 109.3 (1) is given to the person, or
- (b) by a later date ordered by the commission.

Recovery of penalty from ratepayers prohibited

109.5 In setting rates for a public utility, the commission must not allow the public utility to recover from persons who receive or may receive service from the public utility the costs of paying an administrative penalty imposed under this Part.

Enforcement of administrative penalty

109.6 (1) An administrative penalty constitutes a debt payable to the government by the person on whom the penalty is imposed.

(2) If a person fails to pay an administrative penalty as required under section 109.4, the government may file with the Supreme Court or Provincial Court a certified copy of the notice imposing the penalty and, on being filed, the notice has the same force and effect, and all proceedings may be taken on the notice, as if the notice were a judgment of that court.

Revenue from administrative penalties

109.7 The commission must pay into the consolidated revenue fund all amounts derived from administrative penalties.

Limitation period

109.8 (1) The time limit for giving a notice under section 109.3 imposing an administrative penalty is 2 years after the date on which the act or omission alleged to constitute the contravention first came to the attention of the chair of the commission.

(2) A certificate purporting to have been issued by the chair of the commission and certifying the date referred to in subsection (1) is proof of that date.

Part 9 — General

Powers of commission in relation to other Acts

110 The powers given to the commission by this Act apply

- (a) even though the subject matter about which the powers are exercisable is the subject matter of an agreement or another Act,
- (b) in respect of service and rates, whether set by or the subject of an agreement or other Act, or otherwise, and
- (c) if the service or rates are governed by an agreement, whether the agreement is incorporated in, or ratified, or made binding by a general or special Act, or otherwise.

Substantial compliance

111 Substantial compliance with this Act is sufficient to give effect to the orders, rules, regulations and acts of the commission, and they must not be declared inoperative, illegal or void for want of form or an error or omission of a technical or clerical nature.

Vicarious liability

112 In construing and enforcing this Act, or a rule, regulation, order or direction of the commission, an act, omission or failure of an officer, agent or other person acting for or employed by a public utility, if within the scope of the person's employment, is deemed in every case to be the act, omission or failure of the utility.

Public utilities may apply

113 A person who is subject to regulation under this Act may make application or complaint to the commission about a matter affecting a public utility, as if made by another party interested.

Municipalities may apply

114 (1) In this section, "municipality" includes a regional district.

(2) If a municipality believes that the interests of the public in the municipality or a part of it are sufficiently concerned, the municipality may, by resolution, become an applicant, complainant or intervenant in a matter within the commission's jurisdiction.

(3) The municipality may, for subsection (2), take a proceeding or incur expense necessary

- (a) to submit the matter to the commission,
- (b) to oppose an application or complaint before the commission, or
- (c) if necessary, to become a party to a proceeding or appeal under this Act.

Certified documents as evidence

115 (1) A copy of a rule, regulation, order or other document in the commission secretary's custody, purporting to be certified by the secretary to be a true copy, is evidence of the document without proof of the signature.

(2) A certificate purporting to be signed by the commission secretary stating that no rule, regulation or order on a specified matter has been made by the commission, is evidence of the fact stated without proof of the signature.

Class representation

116 (1) The commission may appoint counsel to represent a class of persons interested in a matter for the purpose of instituting or attending on an application or hearing before the commission or another tribunal or authority.

(2) The commission may fix the costs of the counsel and may order by whom and in what amount or proportion they be paid.

Costs of commission

117 (1) In this section, "costs of the commission" includes costs incurred by the commission for the services of consultants and experts engaged in connection with the proceeding.

(2) The commission may order that the costs of the commission incidental to a proceeding before it are to be paid by one or more participants in the proceeding in such amounts and proportions as the commission may determine.

Participant costs

118 (1) The commission may order a participant in a proceeding before the commission to pay all or part of the costs of another participant in the proceeding.

(2) If the commission considers it to be in the public interest, the commission may pay all or part of the costs of participants in proceedings before the commission that were commenced on or after April 1, 1993 or that are commenced after June 18, 1993.

(3) Amounts paid for costs under subsection (2) must not exceed the limits prescribed for the purposes of this section.

Tariff of fees

119 With the advance approval of the Lieutenant Governor in Council, the commission may prescribe a tariff of fees for a matter within the commission's jurisdiction.

No waiver of rights

120 (1) Nothing in this Act releases or waives a right of action by the commission or a person for a right, penalty or forfeiture that arises under a law of British Columbia.

(2) No penalty enforceable under this Act is a bar to or affects recovery for a right, or affects or bars a proceeding against or prosecution of a public utility, its directors, officers, agents or employees.

Relationship with Local Government Act

121 (1) Nothing in or done under the Community Charter or the Local Government Act

(a) supersedes or impairs a power conferred on the commission or an authorization granted to a public utility, or

(b) relieves a person of an obligation imposed under this Act or the Gas Utility Act.

(2) In this section, "authorization" means

(a) a certificate of public convenience and necessity issued under section 46,

(b) an exemption from the application of section 45 granted, with the advance approval of the Lieutenant Governor in Council, by the commission under section 88, and

(c) an exemption from section 45 granted under section 22, only if the public utility meets the conditions prescribed by the Lieutenant Governor in Council.

(3) For the purposes of subsection (2) (c), the Lieutenant Governor in Council may prescribe different conditions for different public utilities or categories of public utilities.

Repealed

122 [Repealed 2004-45-172.]

Service of notice

123 (1) A notice that the commission is empowered or required to give to a person under this Act must be in writing and may be served either personally or by mailing it to the person's address.

(2) If a notice is mailed, service of the notice is deemed to be effected at the time at which the letter containing the notice, properly addressed, postage prepaid and mailed, would be delivered in the ordinary course of post.

Reasons to be given

124 (1) If an application to the commission is opposed, the commission must prepare written reasons for its decision.

(2) If an application is unopposed, the commission may, and at the request of the applicant must, prepare written reasons for its decision.

(3) Written reasons must be made available by the secretary to any person on payment of the fee set by the commission.

(4) [Repealed 2003-46-20.]

Regulations

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)-(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:

"reliability standard" means a reliability standard, rule or code established by a standard-making body for the purpose of being a mandatory reliability standard for planning and operating the North American bulk electric system, and includes any substantial change to any of those standards, rules or codes;

"standard-making body" means

- (a) the North American Electric Reliability Corporation,
 - (b) the Western Electricity Coordinating Council, and
 - (c) a prescribed standard-making body.
- (2) For greater certainty, the commission has exclusive jurisdiction to determine whether a reliability standard is in the public interest and should be adopted in British Columbia.
- (3) The authority must review each reliability standard and provide to the commission, in accordance with the regulations, a report assessing
- (a) any adverse impact of the reliability standard on the reliability of electricity transmission in British Columbia if the reliability standard were adopted under subsection (6),
 - (b) the suitability of the reliability standard for British Columbia,
 - (c) the potential cost of the reliability standard if it were adopted under subsection (6),
 - (c.1) the application of the reliability standard to persons or persons in respect of specified equipment if the reliability standard were adopted under subsection (6), and
 - (d) any other matter prescribed by regulation or identified by order of the commission for the purposes of this section.
- (4) The commission may make an order for the purposes of subsection (3) (d).
- (5) If the commission receives a report under subsection (3), the commission must
- (a) make the report available to the public in a reasonable manner, which may include by electronic means, and for a reasonable period of time, and
 - (b) consider any comments the commission receives in reply to the publication referred to in paragraph (a).
- (6) After complying with subsection (5), the commission, subject to subsection (7), must, by order, adopt the reliability standards addressed in the report if the commission considers that the reliability standards are required to maintain or achieve consistency in British Columbia with other jurisdictions that have adopted the reliability standards.
- (7) The commission is not required to adopt a reliability standard under subsection (6) if the commission determines, after a hearing, that the reliability standard is not in the public interest.
- (8) Subject to subsection (8.3), a reliability standard adopted under subsection (6) applies as specified in an order made under subsection (6).
- (8.1) At the request of the commission, the authority must provide to the commission, in accordance with any directions made by the commission, a report assessing the application of a reliability standard adopted under subsection (6) to a specified person, a class of persons or a person in respect of specified equipment.
- (8.2) Subsection (5) applies to a report received by the commission under subsection (8.1).
- (8.3) After complying with subsection (5) respecting a report received under subsection (8.1), the commission may, by order, specify that a reliability standard adopted under subsection (6) applies or does not apply to a specified person, a class of persons or a person in respect of specified equipment.
- (9) A reliability standard adopted under subsection (6) applies as specified in an order made under subsection (6) or (8.3) despite an exemption issued under section 22 or 88 (3).
- (10) The commission may make orders providing for the administration of adopted reliability standards.
- (10.1) Without limiting subsection (10), section 43 (1) (a) and (b) (i) applies to a person to whom a reliability standard adopted under subsection (6) of this section applies, as though the person were a public utility.
- (11) The commission, on its own motion or on complaint, may
- (a) rescind an adoption made under subsection (6), or
 - (b) adopt a reliability standard previously rejected under subsection (7)
- if the commission determines, after a hearing, that the rescission or adoption is in the public interest.
- (12) The commission, without the approval of the minister responsible for the administration of the Hydro and Power Authority Act, may not set a standard or rule under section 26 of this Act with respect to a matter addressed by a reliability standard assessed in a report submitted to the commission under subsection (3) of this section.

Intent of Legislature

126 If a provision of this Act is held to be beyond the powers of British Columbia, that provision must be severed from the remainder of the Act, and the remaining provisions of the Act have the same effect as if they had been originally enacted as a separate enactment and as the only provisions of this Act.

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