

CHAPTER W-2

WATER AND SEWERAGE ACT

1. In this Act
- (a) “Commission” means the Island Regulatory and Appeals Commission established under section 2 of the *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11; Commission
- (b) “person” includes an association, a body corporate, a partnership, and a municipality; person
- (c) “public utility” means any person engaged in constructing, altering, extending, managing or controlling any system for providing the service of water or sewerage or water and sewerage for the public in any area within Prince Edward Island. R.S.P.E.I. 1974, Cap. W-2, s.1; 1983, c.33, s.66l 1991, c.18, s.22. public utility
2. (1) Notwithstanding any statute of this province, the Commission has and shall exercise general supervision and control over all public utilities as defined in this Act, and the provisions of the *Island Regulatory and Appeals Commission Act* extend and apply to the Commission in the exercise of the duties imposed by this Act. . Powers of Commission
- (2) Notwithstanding subsection (1), the Commission does not have general supervision and control over sewerage and water of Charlottetown, City of Summerside or the Towns of Charlottetown South or Charlottetown West and in relation to those utilities this Act shall apply as if for references to the Commission there were substituted references to the relevant municipal council. R.S.P.E.I. 1974, Cap. W-2, s.2; 1991, c.18, s.22; 1994, c.66, s.1 {eff.} March 31/95. Powers of Commission
3. Before commencing the construction, alteration, or extension of any water or sewerage system, every public utility shall obtain from the Commission a permit in writing authorizing the same, and shall submit to the Commission at least one copy of all plans, engineer's reports and estimates of costs, together with such other information and data as the Commission may require. R.S.P.E.I. 1974, Cap. W-2, s.3; 1988, c.68, s.1. Permit for public utility
4. The Commission may approve any application in whole or in part and may amend or vary the same as it sees fit. R.S.P.E.I. 1974, Cap. W-2, s.4; 1988, c.68, s.1. Approval of Commission

Issuance of permit	5. When the Commission approves, amends or varies an application, it shall issue a permit to the public utility which shall carry out the work according to any conditions of the permit. R.S.P.E.I. 1974, Cap. W-2, s.5; 1988, c.68, s.1.
Equipment and material to comply	6. No equipment or material shall be used in the construction, extension or alteration of any water or sewerage system that does not comply with the requirements of the Commission. R.S.P.E.I. 1974, Cap. W-2, s.6.
Entry on private property	7. When the Commission finds that it is in the public interest that any public utility locate any portion of any water or sewerage system on private property and that no agreement can be reached with the owner of the property, the Commission may order, on such terms and conditions and subject to the payment of such compensation, if any, as may seem just, that the public utility have leave to enter upon the private property and there locate any portion of any water or sewerage system and have access thereto at all times for repairing, operating or maintaining the same, but at no time doing unnecessary damage. R.S.P.E.I. 1974, Cap. W-2, s.7.
Measurement of service	8. The Commission may prescribe the method by which any service under this Act shall be measured and may require any public utility to install all equipment and fittings necessary to comply with such method and may make regulations governing the classification of the methods of measurement and determining the person or persons to whom the classifications apply. R.S.P.E.I. 1974, Cap. W-2, s.8.
Rates and charges fixed by Commission	9. Notwithstanding any statute of this province or any agreement or usage to the contrary all rates and charges for the supplying of water or sewage disposal shall be fixed and determined by or approved by the Commission. R.S.P.E.I. 1974, Cap. W-2, s.9.
Basis for rates and charges	10. (1) The rates and charges shall be fixed and determined in accordance with the generally accepted public utility practices after taking into consideration local conditions and circumstances.
Classification & prescription of rates & charges	(2) Where considered necessary by the Commission such rates and charges may be classified and prescribed as follows: (a) an initial charge for constructing and establishing connection from the main water or sewerage line of a public utility to any building or structure on the land and premises of any person for the purpose of supplying water or sewage disposal; (b) monthly, quarterly or other periodical rates or charges for supplying water to a premises based on the method of measurement prescribed by the Commission in accordance with section 8;

(c) monthly, quarterly or other periodical rates and charges for sewage disposal where the Commission considers the same to be necessary and equitable;

(d) such other rates and charges for construction or for service provided as the Commission may approve. R.S.P.E.I. 1974, Cap. W-2, s.10.

10.1 For the purposes of this Act, a person along whose lands run sewer or water mains shall be deemed to receive service, be supplied with water or provided with sewerage disposal, as the case may be, notwithstanding that such sewer or water mains are not physically connected by lateral lines to any residence, building or other structure situate upon the said lands of such person. 1989, c.9, s.2 {eff. June 12, 1980}.

Service deemed to be received

11. (1) Every public utility shall carry a proper and adequate depreciation account when the Commission, after investigation, shall determine that the depreciation account can be reasonably required.

Depreciation account

(2) The Commission shall ascertain and determine what are proper and adequate rates of depreciation for the several classes of property or material of each public utility. R.S.P.E.I. 1974, Cap. W-2, s.11.

Rates of depreciation, determination of

12. The Commission may prescribe the forms of all books, accounts, papers and records required to be kept by a public utility, and every public utility is required to keep and render its books, accounts, records and papers accurately and faithfully in the manner and form prescribed by the Commission and to comply with all directions of the Commission relating to the books, accounts, papers and records. R.S.P.E.I. 1974, Cap. W-2, s.12.

Form of records prescribed by Commission

13. The Commission may cause to be prepared suitable blank forms and shall, when necessary, furnish the forms to each public utility, which shall make thereon such reports to the Commission as it may require. R.S.P.E.I. 1974, Cap. W-2, s.13.

Forms, reports on by public utility

14. The Commission may direct that a public utility shall make certain provisions for the amortization of any sums allowed for organization expenses and expenses of valuation, and may direct that the sum required annually for the amortization shall be charged as an operating expense. R.S.P.E.I. 1974, Cap. W-2, s.14.

Amortization for organization expenses

15. (1) When any public utility wishes to vary any existing rates, or charges, or to establish any new rates or charges it shall submit for the approval of the Commission a schedule of the proposed rates and charges.

Schedule of new rates presented to Commission

Approval of rates & charges Effect of approval	<p>(2) The Commission may approve the schedule of rates, and charges either in whole or in part, or may amend or vary the same as it sees fit.</p> <p>(3) On the approval the rates and charges are the lawful rates and charges of the public utility until altered or modified under this Act. R.S.P.E.I. 1974, Cap. W-2, s.15; 1988, c.68, s.2.</p>
Service rules and regulations, powers of Commission	<p>16. (1) All rules and regulations of any public utility relating to the kind of service to be supplied to customers and the manner by which the service shall be supplied, shall be subject to approval by the Commission and, after approval, those rules and regulations shall govern the service.</p>
Commission, power to make rules and regulations	<p>(2) Notwithstanding subsection (1), the Commission may make rules and regulations relating to the kind of service and the manner by which the service shall be supplied to customers of a public utility. 1988, c.68, s.3.</p>
Interim approval where no previous schedule	<p>17. When a public utility submits for the approval of the Commission a schedule of rates and charges that apply only to a service for which no schedule of rates and charges has previously been approved, the Commission may grant an interim approval of the schedule, and thereafter until otherwise ordered by the Commission, the schedule of rates and charges are the lawful rates and charges to be made by the public utility with respect to the services therein mentioned. R.S.P.E.I. 1974, Cap. W-2, s.16.</p>
Public hearing	<p>18. The Commission may order a public hearing in respect of any schedule of rates and charges submitted for approval under this Act, and reasonable notice thereof shall be given to such public utility and to the public. R.S.P.E.I. 1974, Cap. W-2, s.17.</p>
Written complaint against rates, etc.	<p>19. Upon written complaint to the Commission, against any public utility, by any five persons, that any of the rates, charges or schedules, whether fixed by or the subject of a signed contract or agreement or otherwise, are unreasonable or discriminatory, or that any regulation, practice or act affecting or relating to the supplying of water and sewerage, or any services in connection therewith are unreasonable, insufficient, or discriminatory or that the service is inadequate, or unobtainable, the Commission shall, after notice to the public utility, investigate such complaint, and may order that such rates, charges or schedules be modified or altered, or that the regulations, measurement, practice or acts be modified or changed, or may order, on such terms and subject to such conditions as may seem just, that the public utility furnish reasonable and adequate service and facilities and make such alterations, extensions and additions as may be required. R.S.P.E.I. 1974, Cap. W-2, s.18.</p>

20. The Commission, when called upon to institute any investigation, may in its discretion, require from the complainants, the deposit of a reasonable amount of money or other security to cover the costs of the investigation, which money shall be dealt with as the Commission may direct should the decision be given against the complainants. R.S.P.E.I. 1974, Cap. W-2, s.19. Deposit to cover costs of investigation
21. When in the opinion of the Commission any ground exists for a complaint against any public utility, the Commission may, on its own motion, investigate such ground in the same manner and with the same powers as are set forth in section 19. R.S.P.E.I. 1974, Cap. W-2, s.20. Investigation of complaint by Commission
22. For the purpose of carrying out its duties under this Act the Commission by its engineers, accountants, valuers and others shall have access, at all reasonable hours, to inspect all books, records, equipment and material of any public utility. R.S.P.E.I. 1974, Cap. W-2, s.21. Inspection of records etc. by Commission
23. Subject to this Act no person shall knowingly solicit, accept or receive any rebate, concession or discrimination with respect to any service or affecting or relating to any public utility whereby any such services are, by any device whatsoever, rendered free or at a lesser rate than named in the schedule in force, as provided herein, or whereby any service or advantage is received other than as is herein specified. R.S.P.E.I. 1974, Cap. W-2, s.22. No free or lesser rates than in schedule
24. (1) If any person serviced with water and sewerage by any public utility neglects or refuses to pay the amount of the rates or charges due for the same, the public utility may discontinue the service and stop the water supply. Discontinuance of service
- (2) Where the public utility discontinues the service and stops the water supply the officers or agents of the public utility may after forty-eight hours notice, enter the premises of such person between the hours of nine o'clock in the forenoon and four o'clock in the afternoon, and separate and take away any meter or other equipment belonging to the public utility, and disconnect any pipes or fittings, whether its property or not, from the system of such public utility. R.S.P.E.I. 1974, Cap. W-2, s.23. Removal of meters & disconnect pipes
25. If a customer of any public utility installs or connects or is desirous of installing or connecting any service or equipment which, in the opinion of the public utility, is or may be detrimental to the service being rendered, the matter may be referred to the Commission and the Commission may make such order thereon as appears reasonable and just. R.S.P.E.I. 1974, Cap. W-2, s.24. Detrimental equipment to service of public utility

- Penalty for offences **26.** Every person or public utility neglecting or refusing to obey, comply with or carry into effect any rule or order of the Commission, made under this Act, or who violates any provision of this Act for which no penalty is provided is liable to a penalty of not less than \$5 nor more than \$500, which may be imposed by the Commission, and if the same is not paid within fifteen days after the imposition thereof, the Commission may proceed to collect the same in the same manner as is prescribed for the recovery of assessment under the *Island Regulatory and Appeals Commission Act*. R.S.P.E.I. 1974, Cap. W-2, s.25; 1991, c.18, s.22.
- Penalties to go to consolidated revenue **27.** Every penalty or fine imposed or collected under this Act goes to and forms part of the Consolidated Fund of the province. R.S.P.E.I. 1974, Cap. W-2, s.26.
- Judicial review **28.** Notwithstanding section 26, proceedings in the Supreme Court by way of application for judicial review lie against any person or public utility which fails to carry out any order of the Commission made under this Act or which performs or commences to perform any act in contravention of any order of the Commission made under this Act. R.S.P.E.I. 1974, Cap. W-2, s.27.