

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY

HAT CREEK PROJECT

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Petroleum Resources Bill 52, Utilities Commission
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BILL 52

UTILITIES COMMISSION ACT

Honourable Robert H. McClelland
Minister of Energy, Mines and Petroleum Resources

1980

Utilities Commission Act

Explanatory Note

The purpose of this Bill is to repeal and re-enact the Energy Act as the Utilities Commission Act.

BILL.

No. 52]

[1980

Utilities Commission Act

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

PART 1

Interpretation

1. In this Act
- "appraisal"
means appraisal by the commission;
- "authority"
means the British Columbia Hydro and Power Authority;
- "commission"
means the British Columbia Utilities Commission constituted 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;
- "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 the Province 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;
- "petroleum products"
includes petroleum, gasoline, naphtha, benzene, kerosene, lubricating oils, stove oil, fuel oil, furnace oil, paraffin, aviation fuels, butane, 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 his lessee, trustee, receiver or liquidator, who owns or operates in the Province, equipment or facilities for

- (a) the production, generation, storage, transmission, sale, delivery or furnishing of electricity, 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 radio-communications where that service is offered to the public for compensation,
- but "public utility" does not include
- (c) a municipality or regional district in respect of services furnished by the municipality or regional district within its own boundaries,
 - (d) a person not otherwise a public utility who furnishes the service or commodity only to himself, his employees or tenants, where the service or commodity is not resold to or used by others, or
 - (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;

"rate"

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

"service"

includes the use and accommodation provided, and a product or commodity furnished, by a public utility and also includes the plant, equipment, apparatus, appliances, property and facilities employed by or in connection with a public utility in providing service or in furnishing 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.

Commission established

2. (1) There shall be a commission known as the British Columbia Utilities Commission.
- (2) The commission shall consist of
 - (a) not more than 7 commissioners appointed by the Lieutenant Governor in Council during pleasure for a period not exceeding 5 years, and
 - (b) other temporary commissioners appointed under subsection (6).
- (3) A person whose service as a commissioner has ended may be reappointed.
- (4) The Lieutenant Governor in Council
 - (a) shall designate a commissioner as chairman, and
 - (b) may designate one or more other commissioners as a deputy chairman.

(5) The chairman is the chief executive officer of the commission and has supervision over and direction of the work and the staff of the commission.

(6) The Lieutenant Governor in Council may appoint persons as temporary commissioners for the purpose of a matter before the commission, or for a period or during circumstances he specifies.

(7) A temporary commissioner, during the period or under the circumstances or for the purpose for which he is named as a temporary commissioner, has all the powers of and may perform all the duties of a commissioner including, where he is so designated, the duties of a chairman.

(8) In the absence or inability to act of the chairman, or if there is a vacancy in the office, a deputy chairman shall for the purposes of a hearing act as chairman, but, if there is no deputy chairman, or no deputy chairman present or able to act, another commissioner may act as chairman.

Commission subject
to direction

3. (1) The commission shall comply with any general or special direction of the Lieutenant Governor in Council with respect to the exercise of its powers and functions.

(2) A direction given by the Lieutenant Governor in Council under subsection (1) is a regulation under the Regulation Act.

Salaries of commissioners

4. The Lieutenant Governor in Council shall fix the salaries of the commissioners and the remuneration of the temporary commissioners.

Sittings and divisions

5. (1) The commission shall 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, and may, subject to this section, make rules respecting its sittings and regulating its procedure, including notices authorized or required to be given under this Act.

(2) The chairman may organize the commission into divisions, each comprising not less than 3 commissioners.

(3) The commissioners shall sit

- (a) as the commission, or
- (b) as a division of the commission,

and where commissioners sit as a division

- (c) 2 or more divisions may sit at the same time,
- (d) the division has all the jurisdiction of and may exercise and perform the powers and duties of the commission, and
- (e) a decision or action of the division is a decision or action of the commission.

(4) At a sitting of the commission or of a division of the commission, 2 commissioners are a quorum.

(5) The chairman may, subject to sections 19 (2) and 24 (2), designate a commissioner to serve as chairman at any sitting of the commission or a division of it at which the chairman or a deputy chairman is not present.

(6) Where a proceeding is being held by the commission or by a division and a sitting commissioner is absent or unable to attend, he is thereafter disqualified from continuing to sit on the proceeding, and notwithstanding subsection (4), the commissioner or commissioners remaining present and sitting shall exercise and perform all the jurisdiction, powers and duties of the commission.

Commission's duties

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

(2) Where the Lieutenant Governor in Council under subsection (1) refers a matter to the commission, he may specify terms of reference requiring and empowering the commission to inquire into the matter in the same way as a review of a regulated project under section 20.

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

Notice of hearings

7. Where the commission is directed or authorized under this Act to hold a hearing, it shall give reasonable notice of the hearing, but no act or decision of the commission shall be questioned or held invalid on the ground that no notice or insufficient notice has been given to any person.

Employees

8. The commission may, notwithstanding the Public Service Act, employ a secretary and other officers and other employees it considers necessary and may determine their duties, conditions of employment and remuneration.

Technical consultants

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

Pensions

10. The Lieutenant Governor in Council may, by order, direct that the Pension (Public Service) 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.

Secretary's duties

11. (1) The secretary shall

- (a) keep a record of the proceedings before the commission,
- (b) ensure that every rule, regulation and order of the commission drawn under the direction of the commission is signed by the chairman, a deputy chairman or acting chairman and 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 or the regulations respecting his duties or office.

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

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

Conflict of interest

12. (1) A commissioner or employee of the commission shall 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 2, 3 or 4 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 furnishing 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 shall, within 3 months after his appointment to the commission or his acquisition of the property, as the case may be, divest himself of the beneficial interest.

(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.

Confidentiality

13. Every commissioner and every officer and employee of the commission shall keep secret all information coming to his 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 him to release the information.

No testimony in civil action

14. A commissioner, officer or employee of the commission shall not be required to testify in a civil action to which the commission is not a party about information obtained by him in the discharge of his duty.

Yearly report

15. (1) The commission shall, in each year, make a report to the Lieutenant Governor in Council for the preceding calendar 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 shall be laid before the Legislature as soon as possible after it is submitted to the Lieutenant Governor in Council.

PART 2

Interpretation

16. In this Part

- "energy"
includes every form of energy;
- "energy operation certificate"
means a certificate issued by the Lieutenant Governor in Council under this Act, authorizing the holder of the certificate to operate a regulated project;
- "energy project certificate"
means a certificate issued by the Lieutenant Governor in Council under this Act, authorizing the holder of the certificate to construct a regulated project;
- "energy resource"
means natural gas and oil, and all other forms of petroleum and hydrocarbon, in gaseous or liquid state, and electricity;
- "energy transshipment terminal" or "energy storage facility"
means a place where an energy resource is accumulated or stored in bulk as part of the process of being transported or distributed;
- "energy use project"
means a mill, factory, plant, smelter, oil refinery, metal refinery or other undertaking or facility designed to use, convert or process an energy resource or coal, or any combination of them, at the rate of 3 PJ or more a year, and for the purpose of this definition an energy resource other than electricity is used, converted or processed at that rate where it is of a quantity capable of yielding that amount of energy by combustion;
- "hydroelectric power plant"
means a facility for the generation of electricity, from the motion of water, or the position or potential motion of water, and includes associated dams, diversion works, water conduits and all structures, machinery, appliances, fixtures and equipment;
- "regulated project"
means
- (a) an electric transmission line of 500 kV or higher voltage,
 - (b) an energy transshipment terminal or energy storage facility, capable of storing an energy resource in a quantity that is capable of yielding by combustion 3 PJ of energy;
 - (c) an energy use project,
 - (d) a transmission pipeline, capable of transporting in one year natural gas, oil or solids, or a liquid or gas derived from them, in a quantity that is capable of yielding by combustion 16 PJ of energy,
 - (e) a hydroelectric power plant that has a capacity of 20 MW or more of electricity,
 - (f) a thermal electric power plant that has a capacity of 20 MW or more of electricity,
 - (g) an addition by which 20 MW or more of electric capacity will be added to a hydroelectric or thermal electric power plant,

- (h) an addition to a regulated project, referred to in paragraphs (a) to (d), that would if constructed alone fall within the definition of "regulated project", and
- (i) an undertaking of any kind that the Lieutenant Governor in Council designates to be significant in the matter of energy;

"review"

means a review under section 20;

"thermal electric power plant"

means a facility for the generation of electricity from the combustion of natural gas, oil, petroleum products, coal, wood or plant products or from the use of geothermal energy, and includes all associated structures, machinery, appliances, fixtures and equipment, and storage and handling facilities;

"transmission pipeline"

means a pipe or system of pipes through which natural gas, oil, solids, or a liquid or gas derived from natural gas, oil or solids, whether in suspension or other form is transported and includes compressor or pumping facilities and other equipment related to the operation of the transmission pipeline, associated terminal or storage facilities, but does not include

- (a) flow lines from wells,
- (b) secondary lines for gathering that are located within a producing area, or
- (c) distribution lines that deliver to ultimate consumers.

Energy project and
operator certificates

17. (1) No person shall, except to the extent that he is authorized to do so under section 19, construct or operate a regulated project except in accordance with an energy project certificate or energy operation certificate.

(2) Where a person contravenes subsection (1), the construction or operation may be restrained in a proceeding brought by the minister in the Supreme Court.

(3) The making of an order under subsection (2) does not prevent the imposition of a penalty under section 124.

Application for
certificate

18. An application for an energy project certificate or for modification of it or of an energy operation certificate shall be made to the minister and shall contain information the minister prescribes.

Minister's disposition
of application

19. (1) On receipt of an application under section 18 the minister may

- (a) with the concurrence of the Minister of Environment, refer the application to the commission for a review,
 - (b) order, in a case where the application is made by a public utility, that the application be dealt with by the commission under Part 3 as an application for a certificate of public convenience and necessity, or
 - (c) with the concurrence of the Minister of Environment, order that the construction and operation of the regulated project is exempt from provisions of this Act specified in the order.
- (2) Where the minister refers an application to the commission, he may designate a commissioner or temporary commissioner to act as chairman for the purpose of the review.
- (3) An order under subsection (1) (c) may include any conditions that could be included in an energy project certificate or energy operation certificate under section 21 (1) (b), and a person constructing or operating the project is bound by them in the same way as if they had been included in an energy project certificate or energy operation certificate issued to him, and sections 17 and 124 apply.

Review by commission

20. (1) Where an application for an energy project certificate is referred to the commission for a review, the commission shall, subject to subsection (3), hear the application in public hearing in accordance with terms of reference specified jointly by the Minister of Energy, Mines and Petroleum Resources and the Minister of Environment, and on conclusion of the hearing shall submit a report and recommendations to the Lieutenant Governor in Council.

(2) The terms of reference may include a requirement that the commission consider and recommend whether an approval, licence or permit or an amendment to any of them should be made, given or issued under section 4, 5, 7, 8, 9 or 10 (4) of the Pollution Control Act or section 6, 7, 10 or 11 of the Water Act.

(3) The commission may, for the purpose of receiving information or evidence that the commission considers is of a confidential character, exclude the public from the hearing while it receives that information or evidence.

Disposition of application by Lieutenant Governor in Council

21. (1) On receiving the report and recommendations of the commission the Lieutenant Governor in Council may order

- (a) that the energy project certificate applied for be refused,
- (b) that the energy project certificate applied for be issued subject to conditions he considers to be in the public interest, and the conditions may include

- (i) a requirement that natural gas used by or in connection with the construction and operation of the project be supplied only under a contract which
 - (A) includes as parties the British Columbia Petroleum Corporation and the operator of the project, and
 - (B) includes terms specified by the Lieutenant Governor in Council, and
- (ii) other conditions that the Lieutenant Governor in Council considers necessary to be included in an energy operation certificate for the project,
- (c) that an approval, licence or permit or an amendment to any of them referred to in section 20 (2) be made, given or issued, subject to any terms or conditions the Lieutenant Governor in Council specifies,

and the order is final and binding.

(2) Where the Lieutenant Governor in Council gives a direction referred to in subsection (1) (c), the person, board, tribunal or agency that has, apart from this Act, the authority or power to issue or decide to make, give or issue the approval, licence or permit or amendment shall, notwithstanding anything in the Pollution Control Act or the Water Act, make, give or issue it in accordance with the direction, and the making, giving or issuance is final and not subject to any review or appeal under those Acts.

(3) On completion of the construction of a regulated project for which an energy project certificate was issued, the Lieutenant Governor in Council shall, on being satisfied that the conditions of the energy project certificate have been substantially complied with, issue an energy operation certificate for the regulated project, and may include in the energy operation certificate the conditions referred to in subsection (1) (b) (i) and (ii).

(4) Where a requirement referred to in subsection (1) (b) (i) is included in an energy project certificate or energy operation certificate,

- (a) sections 44, 45, 64, 65, 66, 68, 69, 70 and 71 shall, with respect to the natural gas supplied under the required contract, operate to regulate only the part of the price to be paid for the natural gas by the certificate holder that consists of transportation costs and charges, and
- (b) the revenue received by the British Columbia Petroleum Corporation or a public utility in respect of the sale of the natural gas to the holder of the certificate pursuant to the required contract shall not be subject to any levy or other payment pursuant to any agreement made by the municipality before or after this section comes into force under section 646 or 647 of the Municipal Act.

(5) No approval, licence or permit or amendment to any of them given, issued or made under subsection (2), shall be varied without the approval of the Lieutenant Governor in Council.

Removal of energy
resource from Province

22. (1) So as to ensure the efficient use of energy resources and to ensure that present and future requirements of the Province may be met, no person shall remove from the Province an energy resource produced, manufactured or generated within the Province, except in accordance with an energy removal certificate granted under this Part, but an energy removal certificate shall not be required

- (a) where the removal is carried out in accordance with
 - (i) a contract made before this Act comes into force, or
 - (ii) a licence, permit or authorization issued for that purpose by the National Energy Board before this Act comes into force, or
- (b) where the removal is exempted from this section by regulations, and for this purpose the regulations may create exemptions for different circumstances, and for different classes of an energy resource and be applicable to different classes of person.

(2) Where a person contravenes subsection (1), the removal may be restrained in a proceeding brought by the minister in the Supreme Court.

(3) The making of an order under subsection (2) does not prevent the imposition of a penalty under section 124.

Application for energy
removal certificate

23. An application for an energy removal certificate or for a modification of it shall be made to the minister and shall contain information the minister prescribes.

Minister's disposition
of application

24. (1) On receipt of an application under section 23 the minister may

- (a) refer the application to the commission for a review, or
- (b) issue an energy removal certificate to the applicant.

(2) Where the minister refers an application to the commission, he may designate a commissioner or temporary commissioner to act as chairman for the purpose of the review.

Review by commission and
disposition of application

25. (1) Where an application for an energy removal certificate or for a modification of it is referred to the commission for a review, the commission shall hear the application in public hearing in accordance with terms of reference specified by the minister, and on conclusion of the hearing shall submit a report and recommendations to the Lieutenant Governor in Council.

(2) On receiving the report and recommendations of the commission, the Lieutenant Governor in Council may

- (a) refuse to issue the energy removal certificate, or
- (b) issue the energy removal certificate subject to conditions he considers to be in the public interest.

PART 3

Regulation of Public Utilities

General

Application of Part 3

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

(2) The furnishing 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.

Corporation generating
electricity for own use

27. Where a corporation generates electricity primarily for its own industrial purposes, that corporation is not subject to this Part for electric service furnished to others if

- (a) the furnishing of that service is wholly incidental to the industrial purposes of the corporation and is not in competition with a public utility that is subject to the jurisdiction of the commission and that is capable of supplying and willing to supply that service, and
- (b) the service furnished to persons other than itself, its employees and tenants does not use more than 15% of the electricity generated by the corporation.

General supervision of
public utilities

23. (1) The commission has general supervision of all public utilities and may make regulations and orders about equipment, appliances, safety devices, extension of works or systems, filing of rate schedules, reporting and other matters it considers necessary or advisable for the safety, convenience or service of the public or for 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.

Examination and inquiries

29. The commission shall, in its supervision of public utilities, 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.

Improved service

30. Where 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 shall determine what is reasonable, safe, adequate and fair service and order the utility to provide it.

Commission may set
standards

31. The commission may, after a hearing held on its own motion or on complaint,

- (a) ascertain and fix just and reasonable standards, classifications, regulations, practices or service to be used by a public utility,
- (b) ascertain and fix 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, and
- (e) provide for the examination and testing of appliances used to measure a service of a utility.

Joint use of facilities

32. (1) Where the commission, after a hearing, finds that 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 that 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) Where the commission, after a hearing, finds that the furnishing 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) The commission, by the same or a later order, may direct that the cost of the placing, construction or equipment be at the expense of the public utility whose wire, cable or apparatus was last placed in point of time, or may, in the discretion of the commission, apportion the cost between the utilities.

Electric and other connections

33. (1) A public utility shall supply its service to premises situated within 90 m of its supply line or such lesser distance as the commission prescribes suitable for that purpose, on being requested by the owner or occupier of the premises to do so, but before supplying the service 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, as set out in the filed schedule of rates, of making the connection.

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

Electric and other connections - greater distance

34. On the application of a person whose premises are situated more than 90 m from a supply line suitable for that purpose, the commission may order a public utility, controlling or operating the line, to supply, within the time the commission directs, the service required by that

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

Extensions

35. Where 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 some or part of the cost by the persons affected.

Regulation of agreements

36. 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

37. Where a public utility 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, but cannot come to an agreement with the municipality on the use of the street or other place or on the terms of the use, the commission may, on application, after any inquiry it considers advisable, by order, allow the use of the street or other place by the public utility for that purpose and prescribe the manner and terms of use.

Dispensing with municipal consent

38. Where 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,

the commission may, 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, by order, allow the use of the street or other place by the public utility, notwithstanding any law or contract granting to another person exclusive rights, and may by the order prescribe the manner and terms of the use.

Order to extend service

39. (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) The order may, in the commission's discretion, impose terms for the extension, including the expenditure to be incurred for all necessary works, and may apportion the cost between the public utility, the municipality and consumers receiving service from the extension.

Other orders to extend service

40. Where the commission, after a hearing, concludes that in its opinion an extension by a public utility of its existing service would furnish 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

41. 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, prescribe the terms on which the public utility may, for any purpose of its service, use a highway in the municipality, or 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

42. Where 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 prescribing and carrying out measures for the safety of the public and of the users of the utility's service, or for adequacy of service, the commission may appoint a supervisor or inspector for that utility and may prescribe his duties.

Remuneration

43. The commission may fix the salary and expenses of a supervisor or inspector appointed under section 42 and may order the amount so fixed to be borne by the municipality in which the operations of the public utility are carried on, or its service is furnished, or to be borne or apportioned in a way the commission considers equitable.

Duty to furnish service

44. Every public utility shall maintain its property and equipment in a condition to enable it to furnish, and it shall furnish, 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

45. On reasonable notice, every public utility shall furnish to all persons applying for service, and reasonably entitled to it, who pay or agree to pay the rates established for that service under this Act or regulations, suitable service without undue discrimination or undue delay.

Exemption

46. The commission may, by order, exempt a municipality, on application, from section 45 except in a defined area, but may, on application by any person and after notice to the municipality, enlarge or reduce that area.

No discontinuance without permission

47. 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 shall not cease the operation or a part of it without first obtaining the permission of the commission.

Duty to obey orders

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

Duty to provide information

49. (1) Every public utility shall furnish to the commission information required by the commission and, for the purposes of this Act, shall answer specifically all questions of the commission.

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

(3) On request by the commission, a public utility shall 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 shall 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 every member of the board of directors and the executive committee, and of every trustee, superintendent, chief or head of construction or operation, or of any department, branch, division or line of construction or operation, and other officers of the utility, 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

50. (1) Every public utility shall have in the Province an office in which it shall keep all accounts and records required by the commission to be kept in the Province.

(2) A public utility shall not remove or permit to be removed from the Province an account or record so kept, except on conditions prescribed by the commission.

Certificate of public convenience and necessity

51. (1) Except as otherwise provided, no person shall, after this section comes into force, 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) A public utility that on the day this section comes into force is operating a public utility plant or system shall, for the purposes of subsection (1), be deemed to have received a certificate of public convenience and necessity, authorizing it to operate the plant or system and, subject to subsection (3), to construct and operate extensions to the plant or system, but nothing in this subsection authorizes the construction or operation of an extension that is a regulated project.

(3) Where 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, it may, at any time, but 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, but a public utility shall 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.

(4) Except as otherwise provided, a privilege, concession or franchise granted after this section comes into force, to a public utility by a municipality or other public authority is not valid unless approved by the commission.

(5) The commission shall 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.

(6) The commission, in giving its approval, shall grant a certificate of public convenience and necessity, and may impose conditions about the duration and termination of the privilege, concession or franchise, or about construction, equipment, maintenance, rates or service, as the public convenience and interest reasonably require.

(7) Where an energy project certificate is issued to a public utility in respect of a regulated project, a certificate of public convenience and necessity authorizing the construction of the project shall be deemed to have been issued under this section.

(8) Where an energy operation certificate is issued to a public utility in respect of a regulated project, a certificate of public convenience and necessity authorizing the operation of the project shall be deemed to have been issued under this section.

Exemption

52. The commission may by regulation exclude utility plant or categories of utility plant from the operation of section 51 (1).

Procedure on application

53. (1) An applicant for a certificate of public convenience and necessity shall file with the commission

- (a) where the applicant is a corporation, a certified copy of its memorandum and articles of association, charter or other document of incorporation,
- (b) evidence required by the commission to show that the applicant has received or will receive the consent, franchise, licence, permit, vote or other authority of the municipality or other public authority, if required, and

(c) a description of the proposed facilities and evidence of technical and economic feasibility, supply and requirements and public convenience and necessity.

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

(4) The commission may on application under subsection (3) make an order declaring that it will, on application, under rules and regulations it prescribes, 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.

(5) On evidence satisfactory to the commission that the consent, franchise, licence, permit, vote or other authority has been secured, the commission shall issue a certificate under section 51.

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

(7) Every public utility to which a certificate is, or has been, issued, or to which an exemption is, or has been, granted under section 52, is authorized and empowered, subject to this Act, to construct, maintain and operate the plant, system or extension authorized in the certificate or exemption.

Order to cease work

54. (1) Where a public utility is engaged, or is about to engage, in the construction or operation of a plant or system and 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 prescribe the terms under this Act as it considers advisable.

(4) Where 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 furnish information required by it and to answer specifically all questions of the commission, and the person shall comply.

Cancellation of franchises
and permits

55. (1) Where, after a hearing, the commission 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, cancel the franchise, licence or permit, or may suspend for a time the commission considers advisable the rights, or any of them, under the franchise, licence or permit.

(2) Where a franchise, licence or permit is cancelled, the utility shall cease to operate, and where a right under a franchise, licence or permit is suspended the utility shall cease to exercise the suspended right during the period of suspension.

Accounts and reports

56. The commission may, by order, require every public utility to

- (a) keep the records and accounts of the conduct of the utility's business as the commission may prescribe, and for public utilities of the same class, to adopt a uniform system of accounting prescribed by the commission,
- (b) furnish at the times and in the form and manner the commission prescribes, a detailed report of finances and operations, verified as prescribed,
- (c) file with the commission, at the times and in the form and manner the commission prescribes, a report of every accident occurring to or on the plant, equipment or other property of the utility, where the accident is of such nature as to endanger the safety, health or property of any person, and
- (d) obtain from a board, tribunal, municipal or other body or official having jurisdiction or authority, permission, where 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 borrowing

57. (1) A public utility shall not issue a security or other evidence of indebtedness payable more than one year from its date, without first obtaining approval of the commission.

(2) On application, if the commission approves of the purpose of the proposed issue and is satisfied that it is to be made in accordance with every enactment governing the issue of securities, the commission may give interim approval for the amount applied for, or in any less amount, and subject to terms it considers reasonable and necessary, and may give final approval when the price at which the securities are to be issued has been agreed.

- (3) Without first obtaining the commission's approval,
- (a) a public utility shall not make a material alteration in the characteristics of its securities or other evidence of indebtedness as described in the commission's approval, and
 - (b) a public utility that has, either with approval or before the date approval was required, issued a security or other evidence of indebtedness payable more than one year from its date, shall not increase a fixed dividend or interest rate or extend a maturity date for the issue, restrict the utility's right to redeem the issue, or increase the premium to be paid on redemption.
- (4) A municipality is not a utility for this section.

Restraint on capitalization

58. A public utility shall not
- (a) capitalize a franchise or right to be a corporation,
 - (b) capitalize a franchise, licence, permit or concession in excess of the amount which, exclusive of tax or annual charge, is paid to the Province, a municipality or other public authority as consideration for the franchise, licence, permit or concession, or
 - (c) issue a security or evidence of indebtedness against a contract for consolidation, amalgamation, merger or lease.

Restraint on disposition

59. Except for a disposition of its property in the ordinary course of business, a public utility shall not, without first obtaining the commission's approval, dispose of or encumber the whole or a part of its property, franchises, licences, permits, concessions, privileges or rights, or 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.

Restraint on merger

60. Without an order of the commission first obtained, a public utility shall not consolidate, amalgamate or merge with another person.

Restraint on share issue, etc.

61. Without first obtaining the commission's approval, a public utility shall not issue or sell or make on its books a transfer of shares in the capital of the utility to

- (a) another public utility, or

- (b) a corporation, where the result of the issue, sale or transfer, in itself or with previous issues, sales or transfers, is to vest in the other corporation a majority interest in the utility's outstanding share capital.

Appraisal of
utility property

62. (1) The commission may ascertain by appraisal the value of the property of a public utility and may 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 furnish 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 shall have access to all records in the possession of a municipality or any ministry or board of the government.

(3) The commission, in making its appraisal under this section, may order that all or part of the costs and expenses of the commission in making the appraisal shall be paid by the public utility, and that the utility pay an amount as the work of appraisal proceeds, and the certificate of the chairman of the commission is conclusive evidence of the amounts so payable.

(4) Expenses approved by the commission in connection with an appraisal, including expenses incurred by the public utility whose property is appraised, shall 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 way the commission prescribes.

Depreciation accounts,
fund

63. (1) Where 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, regulations and forms of account prescribed by the commission.

(2) The commission shall ascertain and, by order after a hearing, fix proper and adequate rates of depreciation.

(3) The rates shall be fixed 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 shall adjust its depreciation accounts to conform to the rates fixed by the commission and, where ordered by the commission, shall, out of earnings, set aside whatever money is required and carry it in a depreciation fund.

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

(6) 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 fix the amount or rate to be charged each year in the accounts of the utility for the purpose of creating the reserve fund.

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

Commission may order
amendment of schedules

64. (1) The commission, on its own motion, or 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, regulations or any law, may, after a hearing, determine the just, reasonable and sufficient rates to be observed and in force, and shall, by order, fix the rates.

(2) The public utility affected by an order under this section shall amend its schedules in conformity with the order and file amended schedules with the commission.

Discrimination
in rates

65. (1) A public utility shall not make, demand or receive an unjust, unreasonable, unduly discriminatory or unduly preferential rate for a service furnished by it in the Province, or a rate that otherwise contravenes this Act, regulations, orders of the commission or other law.

(2) A public utility shall not, as to rate or service, subject any person or locality, or a particular description of traffic, to an undue prejudice or disadvantage, or extend to any person a form of agreement, a rule or regulation or a facility or privilege, unless the agreement, rule, regulation, facility or privilege is regularly and uniformly extended to all persons under substantially similar circumstances and conditions for service of the same description, and the commission may, by regulation, declare the circumstances and conditions that are substantially similar.

(3) It is a question of fact, of which the commission is the sole judge, whether a rate is unjust or unreasonable, or whether, in any case, there is undue discrimination, preference, prejudice or disadvantage in respect of a rate or service, or whether a service is offered or furnished under substantially similar circumstances and conditions.

- (4) 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 furnished by the utility,
 - (b) insufficient to yield a fair and reasonable compensation for the service rendered 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.

Rates

66. (1) In fixing a rate under this Act or regulations
- (a) the commission shall consider all matters that it considers proper and relevant affecting the rate,
 - (b) the commission shall have due regard, among other things, to the fixing of a rate that is not unjust or unreasonable, within the meaning of section 65, and
 - (c) where the public utility furnishes more than one class of service, the commission shall segregate the various kinds of service into distinct classes of service; and in fixing a rate to be charged for the particular service rendered, each distinct class of service shall be considered as a self contained unit, and shall fix a rate for each unit that it considers to be just and reasonable for that unit, without regard to the rates fixed for any other unit.

(2) In fixing a rate under this Act or regulations, 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 furnishing the service in that special area, but, where the commission takes a special area into account, it shall have regard to the special considerations applicable to an area that is sparsely settled or has other distinctive characteristics.

(3) For this section, the commission shall 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

67. (1) A public utility shall file with the commission, under rules the commission prescribes 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 so filed shall not be amended without the commission's consent.

(3) The rates in schedules as filed and as amended in accordance with this Act and 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 rise 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, but if

within 60 days after the date the commission approves the new schedule the commission either on complaint of a person whose interests are affected or on its own motion directs an inquiry into the new schedule of rates having regard to the fixing of a rate that is not unjust or unreasonable, the commission may after the inquiry 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 may confirm the increase or part of it.

Publication of schedules

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

Schedules to be observed

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

Orders respecting contracts

70. (1) Where 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) Where 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 4

Interpretation

71. In this Part "seller" means a person who sells or trades in, or offers to sell or trade in, petroleum products.

Power to regulate
petroleum industry

72. (1) The commission has power, subject to this Act and the regulations, to regulate and control within the Province the petroleum industry, but the commission does not have the power of regulation or control in respect of any matters dealt with under the Petroleum and Natural Gas Act, the Ministry of Energy, Mines and Petroleum Resources Act, the Factory Act, the Labour Code, the Employment Standards Act, and any other Acts designated by the Lieutenant Governor in Council.

(2) The commission may exercise its powers and functions under subsection (1) or section 73 (2), 74, 75, 76, 77, 78 or 80 only to the extent authorized by the Lieutenant Governor in Council by regulation, and a regulation may be general or confined to a specified subject or matter.

Commission powers

73. (1) The commission has the power to, and may, compel a person engaged in the petroleum industry to comply with this Act and regulations and orders made under it.

(2) The commission may

- (a) make orders, rules and regulations, not inconsistent with this Part, that it considers necessary or advisable to enable it to exercise the jurisdiction conferred on it by this Act,
- (b) make an order, rule or regulation applicable to all cases, or to any particular case or class of case, or to any particular district,
- (c) exempt a person or class of persons from the operation of this Part or an order, rule or regulation for a period it considers proper or advisable, and
- (d) hold hearings it considers necessary or advisable.

Regulations

74. The commission may make regulations

- (a) establishing standards and specifications for petroleum products sold in the Province for use in the Province,
- (b) establishing classes of sellers,
- (c) requiring that sellers grade petroleum products sold by them according to the standards and specifications established,
- (d) requiring that the standards and specifications be made known to a purchaser at the time of purchase,
- (e) prescribing the manner in which the specifications and standards are to be made known to the purchaser,
- (f) for the inspection and testing of petroleum products to ascertain that they are of the standards and specifications represented,

- (g) regulating and prohibiting the use of trading stamps, defined in the Trading Stamp Act, or merchandise to represent a discount or premium on the price of a petroleum product,
- (h) regulating or prohibiting any practice in respect of discount pricing of a petroleum product, and defining "discount" for the purpose,
- (i) exempting specified classes of sellers from a provision of this Part or the regulations, other than a regulation under section 81,
- (j) prescribing how the price of a petroleum product must be made known to a purchaser, and
- (k) establishing a system of registration and licensing of sellers, and requiring that a seller or a class of seller register with and obtain a licence from the commission.

Examination and audit

75. (1) The commission may examine and audit sellers' accounts.

(2) Items of account shall be allocated to the accounts designated and kept in the manner prescribed by the commission.

(3) The agents, accountants or examiners employed by the commission have authority, under commission direction, to inspect and examine accounts, records and memoranda of sellers.

Information

76. The commission may require a seller to furnish to the commission accurate and detailed information relating to the cost of any of its operations and of the production, refining, blending, manufacturing, preparation, handling and selling of its petroleum products and may prescribe how the cost shall be ascertained and the manner and proportion in which and the extent to which different items of cost are to be distributed or allocated among different petroleum products.

Further information

77. A seller shall furnish to the commission, on request, further detailed records and information respecting any part of the seller's business.

Power of entry and inspection

78. (1) The commission or a person authorized by it for the purpose may, at a reasonable time, enter a facility or establishment used in connection with the petroleum industry and may inspect the premises or establishment and any machinery, equipment or materials and any books of account, records or memoranda.

(2) A person who obstructs or interferes with the commission or person inspecting commits an offence.

Neglect or omission
an offence

79. A person who knowingly and wilfully neglects or omits, or who knowingly and wilfully causes or participates with others in causing the neglect or omission, to do or perform an act or thing required by this Part or regulations under it is guilty of an offence and in addition to all other penalties is liable on conviction to a fine of not more than \$10 000.

Refusal or failure
to supply

80. Where a seller at any time refuses or fails to supply an adequate quantity of a petroleum product to a person at a price that does not exceed any applicable maximum price specified in a regulation made under this Part, the commission may order the seller to supply that product to the buyer at the price, so specified and in the quantity and on the terms in all other respects as the commission may specify in the order.

Prices

81. (1) The Lieutenant Governor in Council may make regulations
- (a) specifying maximum prices that may be charged by sellers of petroleum products according to the type of petroleum products and class of users, and
 - (b) restricting the hours of sale of petroleum products.
- (2) Regulations under subsection (1) may be made applicable to specified localities.

PART 5

Common carrier

82. (1) The commission may, on application by an interested party and after a hearing, notice of which has been given to all persons whom the commission believes may be affected, issue an order declaring a person to be a common carrier, to be effective on a date determined by the commission, with respect to the operation of a pipeline for the transportation of one or more of

- (a) crude oil,
- (b) natural gas,
- (c) natural gas liquids, or
- (d) another type of energy resource prescribed by the Lieutenant Governor in Council,

and may, in the order, establish the conditions under which the common carrier shall accept and carry the crude oil, natural gas, natural gas liquids or other energy resource.

(2) A common carrier shall comply with the conditions in an order made under this section.

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

(4) Where an agreement between a person declared to be a common carrier and another person

- (a) was made before an order was made under this section, and
- (b) is inconsistent with the conditions established by the commission,

the commission may, in the order or a subsequent order, vary the agreement between the parties to eliminate the inconsistency, and the common carrier and the commission are not liable for damages suffered by the other person resulting from the variation.

(5) The commission may declare a person to be a common carrier, whether or not the person has acted or held himself out as a common carrier.

Common purchaser

83. (1) The commission may, on application by an interested party and after a hearing, notice of which has been given to all persons the commission believes may be affected, issue an order declaring that a person who purchases or otherwise acquires, from a pool designated by the commission,

- (a) crude oil,
- (b) natural gas,
- (c) natural gas liquids, or
- (d) another type of energy resource prescribed by the Lieutenant Governor in Council,

is a common purchaser of the crude oil, natural gas, natural gas liquids or other type of energy resource and may, in the order but subject to subsection (3), establish the conditions under which the common purchaser shall purchase the crude oil, natural gas, natural gas liquids or other type of energy resource.

(2) A common purchaser shall comply with the conditions in an order made under this section.

(3) The commission shall not require a common purchaser to purchase natural gas from a pool

- (a) in a greater total amount, or
- (b) at a greater rate

than he was obligated to purchase from that pool under the gas purchase contracts existing immediately before an order was made under this section.

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

(5) Where an agreement made between a person declared to be a common purchaser and another person

- (a) was made before an order was made under this section, and
- (b) is inconsistent with the conditions established by the commission,

the commission may, in the order or a subsequent order, vary the agreement between the parties to eliminate the inconsistency, and the common purchaser and the commission are not liable for damages suffered by the other person resulting from the variation.

Common processor

84. (1) The commission may, on application by an interested party and after a hearing, notice of which has been given to all persons the commission believes may be affected, issue an order declaring that a person who owns or operates a plant for processing natural gas is a common processor and may, in the order, establish the conditions under which the common processor shall accept and process natural gas.

(2) A common processor shall comply with the conditions in an order made under this section.

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

(4) Where an agreement made between a person declared to be a common processor and another person

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

(b) is inconsistent with the conditions established by the commission,

the commission may, in the order or a subsequent order, vary the agreement between the parties to eliminate the inconsistency, and the common processor and the commission are not liable for damages suffered by the other person resulting from the variation.

PART 6

Natural gas used
by industry

85. The Lieutenant Governor in Council may make regulations

(a) empowering the commission to restrict the sources from which or persons from whom industrial consumers may acquire natural gas,

(b) defining, for the purpose of this section and the regulations, the meaning of "industrial consumer", and

(c) requiring an industrial consumer to provide to the commission information the commission requires,

and where, under the regulations made under this section, the commission restricts the sources or suppliers of natural gas, sections 44, 45, 64, 65, 66, 69 and 70 shall operate to regulate only that part of the price of the natural gas that consists of transportation costs and charges.

PART 7

Commission inquiries

86. 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, another Act, general or special, a regulation, order, bylaw or direction made under any of them.

Jurisdiction

87. The commission has jurisdiction to inquire into, hear and determine an application by or on behalf of any party interested, requesting the commission to give a direction or approval which by law it may give, or to approve, prohibit or require anything to which by any Act, general or special, the commission's jurisdiction extends.

Mandatory and
restraining orders

88. (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.

Powers to examine

89. The commission has, for the attendance and examination of witnesses, taking of depositions in or out of the Province, production and inspection of documents, entry and inspection of property, enforcement of its orders and other matters necessary or proper to exercise its jurisdiction under or for carrying into effect an Act within its jurisdiction, all the powers, rights and privileges of a judge of the Supreme Court.

Commission not bound
by precedent

90. The commission shall make its decision on the merits and justice of the case, and is not bound to follow legal precedent.

Jurisdiction as to
liquidators and
receivers

91. (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 the Province, 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 him, shall obey the orders of the commission, within its jurisdiction, and the commission may enforce its orders against him even though he is appointed by or acts under the authority of a court.

Power to extend time

92. Where 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, on notice and hearing, or, in its discretion, on application, without notice to any person, extend the time so specified.

Evidence

93. (1) The commission, in its discretion, may accept and act on evidence by affidavit, written statement, the report of any of its members or officers, or on evidence obtained in any other manner it decides.

(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 his report.

(3) Each member, officer and person appointed has, for the purpose of the inquiry, the powers conferred on the commission by section 89.

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

Findings of fact
conclusive

94. 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

95. 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

96. The pendency of any suit, prosecution or other proceeding in a court involving questions of fact does not deprive the commission of jurisdiction to hear and determine the same questions of fact.

Power to inquire
and hear

97. The commission may, on its own motion, and on the request of the Lieutenant Governor in Council the commission shall, inquire into, hear and determine a matter that under this Act it may inquire into, hear or determine on application or complaint, and in that respect the commission has the same powers as are vested in it by this Act in respect of an application or complaint.

Action on complaints

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

General powers
not limited

99. 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

100. (1) Except in case of urgency, of which the commission is sole judge, the commission shall not, without a hearing, make an order involving an outlay, loss or deprivation to a public utility or person engaged in the petroleum industry.

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

Public hearing

101. Where this Act requires that a hearing be held, it shall 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.

Recitals not required

102. The commission, in making an order, 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

103. (1) The commission, in making an order, rule or regulation may make it to 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 other than under Part 2 for a time the commission considers advisable.

(3) The commission may, on conditions it considers advisable, with the prior approval of the Lieutenant Governor in Council, exempt a person, equipment or facilities from the application of all or any of the provisions of this Act, other than Part 2, or may limit or vary the application of this Act, other than Part 2.

Partial relief

104. 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

105. (1) In an order or regulation the commission may direct that the order or regulation or part of it shall come into operation at a future time, or on the happening of an event specified in the order or regulation, or 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

106. (1) Where the special circumstance of a case so require, the commission may make, without notice, 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 shall 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

107. Where, in the exercise of a commission power under an Act, the commission directs that any 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 by what person interested at or within what time, at whose cost and expense, on what terms including payment of compensation, and under what supervision, the structure, appliance, equipment or works shall be carried out.

Enforcement of orders

108. Where an order is made by the commission for the payment of money, costs or a penalty, and a written direction for enforcement of the order addressed to a sheriff, stating the amount due and payable and sought to be recovered under the order, and stating the person by whom it is payable, is endorsed on or attached to a certified copy of the order and signed by the chairman of the commission, the sheriff, on receipt, shall levy the amount with his costs in the same way and with the same powers as if the direction were an execution against the goods of the person by whom the amount is payable, issued by the Supreme Court.

Peace officers to assist

109. (1) A sheriff, deputy sheriff or peace officer is an officer of the commission and shall, when requested, aid, assist and obey the commission in the exercise of its jurisdiction.

(2) On the certificate of the commission's secretary of the fees payable and the person by whom they are payable, a sheriff, deputy sheriff or peace officer shall be paid on the same basis as fees for similar services in the Supreme Court.

Lien on land

110. Where 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, and on registration the order is a lien and charge on all the land of the person ordered to make the payment 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

111. (1) Where a person defaults in doing anything directed by an order of the commission under this Act, the commission may authorize a person it considers suitable to do the thing, and the person so 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

112. (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 shall 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) The commission, on taking possession of the business and property of a public utility, 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

113. (1) Where 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 chairman and secretary, setting forth the nature of the order and the default of the company.

(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 8

Reconsideration by
commission

114. (1) The commission may reconsider, vary or rescind a decision, order, rule or regulation made by it, and may rehear an application before deciding it.

(2) Where a hearing is held or required under this Act before a rule or regulation is made, the rule or regulation shall not be altered, suspended or revoked without a hearing.

Appeal to Court
of Appeal

115. (1) On application to the Court of Appeal within 28 days of a decision, order, rule or regulation of the commission, or within a further time allowed by the Court of Appeal in special circumstances, if the court grants leave to appeal, an appeal lies to that court from the order, decision, rule or regulation on a question of law or excess of jurisdiction.

(2) The granting of leave to appeal and the costs of the application are in the discretion of the Court of Appeal.

Notice of application

116. The party appealing shall 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.

Procedure on appeal

117. (1) Where leave is granted, the appellant shall, within 15 days from the granting, give notice of appeal to the commission, to the Attorney General, and to any party adverse in interest.

(2) The commission and the Attorney General may be heard by counsel on the appeal.

Costs of appeal

118. (1) Payment of the costs incurred for an application or appeal to the Court of Appeal may be enforced in the same way as payment of costs ordered by the commission.

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

Stay of proceedings

119. (1) An appeal to the Court of Appeal shall 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 until the decision of the Court of Appeal is rendered.

Jurisdiction of Court of Appeal

120. (1) The Court of Appeal has the same jurisdiction and powers on appeals as are vested in it for appeals from orders of the Supreme Court.

(2) Unless otherwise provided in this Act, appeals shall conform, as nearly as may be, with the rules governing appeals from the Supreme Court.

Commission to observe decision

121. On the determination of the questions involved in the appeal, the Court of Appeal shall certify its opinion to the commission, and an order of the commission shall conform to that opinion.

Case stated by commission

122. (1) The commission may, of its own motion or on the application of a party who gives the security the commission directs, and shall, 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 shall hear and determine all questions of law arising on the stated case and shall remit the matter to the commission with the court's opinion, and the opinion is binding on the commission and on all parties.

Jurisdiction of commission exclusive

123. (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 shall not be questioned, reviewed or restrained by or on an application for judicial review or other process or proceeding in any court.

PART 9

Offences

124. (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 furnish 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 furnishes 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 furnish to the commission a report or form of return required under this Act or the regulations,
 - (ii) who fails or refuses to answer a question contained in the report or form of return so required,
 - (iii) who wilfully gives a false answer to a question so contained,
 - (iv) who evades the question or gives an evasive answer to a question so contained, where he 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 his possession or under his control,
 - (vi) who fails to properly use and keep the system of accounting of the public utility prescribed 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, or

- (viii) on whom the commission serves notice directing him to furnish to the commission information or a return that the utility may be required to furnish under this Act or regulations, and who wilfully refuses or fails to furnish the information or return to the best of his knowledge, or means of knowledge, in the manner and time directed by the commission;
- (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 alderman 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) a person who contravenes section 17 or 22;
- (h) a person who obstructs or interferes with a commissioner, officer or person in the exercise of rights conferred or duties imposed by or 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, where the service is furnished or received in violation of this Act;
- (j) except so far as his public duty requires him 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.

(2) Subsection (1) (e) and (f) does not apply where the person proves that, according to his position and authority, he took all necessary and proper means in his power to obey and carry out, and to procure obedience to and the carrying out of the order, and that he was not at fault for the failure or refusal.

(3) Subsection (1) (h) does not apply where the commissioner, officer or person does not, on request at the time, produce a certificate of his appointment or authority.

(4) A person convicted of an offence under this section is liable to a penalty not exceeding \$10 000.

(5) Where this Act makes anything an offence, each day the offence continues constitutes a separate offence.

(6) 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.

PART 10

Other Acts:

125. The powers given to the commission by this Act apply

- (a) notwithstanding that 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 fixed by or the subject of an agreement or other Act, or otherwise, and
- (c) where 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

126. Substantial compliance with this Act is sufficient to give effect to the orders, rules, regulations and acts of the commission, and none of them shall be declared inoperative, illegal or void for want of form or an error or omission of a technical or clerical nature.

Vicarious liability

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

Public utilities may apply

128. 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

129. (1) Where 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.

(2) The municipality may, for subsection (1), take a proceeding or incur expense necessary to submit the matter to the commission, to oppose an application or complaint before the commission, or, if necessary, to become a party to a proceeding or appeal under this Act.

Certified copies

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

Certificate

131. 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

132. (1) With the approval of the Attorney General, 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

133. The costs incidental to a proceeding before the commission are in the discretion of the commission and it may order by whom and to whom and in what amount the costs are to be paid.

Tariff of fees

134. The commission, with the prior approval of the Lieutenant Governor in Council, may prescribe a tariff of fees for a matter within the commission's jurisdiction.

No waiver of rights

135. (1) Nothing in this Act releases or waives a right of action by the commission or a person for a right, penalty or forfeiture which arises under a law of the Province.

(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.

Effect on other Acts

136. Nothing in, or done under, the Municipal Act supersedes or impairs a power conferred on the commission or a public utility, or relieves a person of an obligation imposed by or under this Act or the Gas Utility Act.

No proceedings
against commission

137. A proceeding shall not be brought against the commission, a member of it, or a person employed by it for anything done in good faith in the performance or intended performance of a duty imposed by this Act.

Service of notice

138. (1) Every notice which the commission is empowered or required to give to a person under this Act, rules or regulations shall be in writing and may be served either personally or by mailing it to the person's address.

(2) Where a notice is mailed, service of the notice shall be 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

139. (1) Where an application to the commission is opposed, the commission shall prepare written reasons for its decision, and where an application is unopposed, the commission may, and at the request of the applicant shall, prepare written reasons for its decision.

(2) Written reasons shall be made available by the secretary to any person on payment of the fee fixed by the commission.

(3) Subsection (1) does not apply to a proceeding under Part 2 of this Act and no advice or report given by the commission to the Lieutenant Governor in Council under that Part shall be disclosed or made public, except by order of the Lieutenant Governor in Council.

Regulations

140. (1) The Lieutenant Governor in Council may make regulations.

(2) The commission may make regulations on a matter for which it is empowered by this Act to make regulations.

Transition

141. (1) A certificate, order, approval, rule, regulation, endorsement or decision that is, under the legislation repealed by this Act, in force on the day that legislation is repealed, continues in force until it expires, or is suspended, cancelled, repealed or amended and it shall be deemed to be made by the British Columbia Utilities Commission under this Act.

(2) A payment, filing, return or report made on or before the day of repeal referred to in subsection (1), to the Energy Commission by or about an energy utility is deemed to have been made to the British Columbia Utilities Commission under this Act.

(3) Where an application or matter in respect of an energy utility was commenced or is proceeding or pending before the British Columbia Energy Commission at the time this Act comes into force, the application or matter, and everything done in relation to it, shall be deemed to have been made or done under this Act, and the application shall be continued and disposed of under this Act.

(4) The rates of the British Columbia Hydro and Power Authority that are in effect immediately before this Act comes into force shall be deemed to have been filed with the commission under this Act and are the lawful, enforceable and collectable rates of the authority.

Intent of Legislature

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

Consequential Amendments

Gas Utility Act Amendments

143. Section 1 of the Gas Utility Act, R.S.B.C. 1979, c. 150, is amended by repealing the definition of "commission" and substituting the following:

"commission"

means the British Columbia Utilities Commission under the Utilities Commission Act; .

144. Section 2 is amended by striking out "granted under the Energy Act is in the municipality or rural area mentioned in the certificate, authorized and empowered to carry on, subject to the Energy Act," and substituting "granted under the Utilities Commission Act or the legislation that preceded it is in the municipality or rural area mentioned in the certificate, authorized and empowered to carry on, subject to the Utilities Commission Act,".

145. Section 3 is repealed and the following substituted:

Utilities Commission Act

3. (1) A certificate, order, approval, rule, regulation, endorsement or decision made or deemed to have been made in respect of a gas utility by the British Columbia Energy Commission under the Energy Act, and that is in force when this section comes into force, continues in force until it expires or is suspended, cancelled, repealed or amended, and is deemed to be made by the British Columbia Utilities Commission under this Act.

(2) A filing, return or report respecting a gas utility, made or deemed to have been made before this section comes into force to the Energy Commission under the Energy Act, is deemed to have been made to the British Columbia Utilities Commission under this Act.

Hydro and Power Authority Act Amendments

146. Section 1 of the Hydro and Power Authority Act, R.S.B.C. 1979, c. 188, is amended by repealing the definition of "British Columbia Energy Commission" and adding the following:

"commission"

means the British Columbia Utilities Commission constituted under the Utilities Commission Act; .

147. Section 12 is amended by adding the following subsection:

(8) Nothing in this section relieves the authority from any requirement of the Utilities Commission Act made applicable to the authority by section 52 (6).

148. Section 17 is amended by striking out "British Columbia Energy" in both places and substituting "Utilities",

149. Section 52 (6) is amended by adding "the Utilities Commission Act, except sections 57, 58 (c), 59, 63 (7), 110 and 113," before "the Wage (Public Construction) Act". ,

150. Section 53 is repealed and the following substituted:

Certificate of
public convenience
and necessity deemed
to be granted

53. For the purposes of the Utilities Commission Act and the Gas Utility Act the authority shall, with respect to works existing when this section comes into force, be deemed to have been granted an energy operation certificate under the Utilities Commission Act, and shall be deemed to be authorized and empowered under the Gas Utility Act to carry on business as a gas utility throughout the Province.

151. Section 58 is amended by striking out "section 21 of the Energy Act" and substituting "section 27 of the Utilities Commission Act".

Motor Carrier Act Amendments

152. Section 31 (2) of the Motor Carrier Act, R.S.B.C. 1979, c. 286, is amended by striking out "Energy Commission", "Energy Act" and "energy utilities" and substituting respectively "Utilities Commission", "Utilities Commission Act" and "public utilities".

153. Section 31 (3) is repealed and the following substituted:

(3) A person who is a member of a body constituted under another Act, or is a member of the public service of the Province, may be appointed commissioner.

(4) One commissioner shall be designated by the Lieutenant Governor in Council as chairman, and one or more of the other commissioners may be designated a deputy chairman.

(5) In the absence or inability to act of the chairman, or if there is a vacancy in the office, a deputy chairman shall act as chairman; but, if there is no deputy chairman, or no deputy chairman present or able to act, another commissioner may act as chairman.

(6) Where a deputy chairman or commissioner acts instead of the chairman, it shall be conclusively deemed that he acted for one of the reasons mentioned in subsection (5).

(7) Any 2 commissioners constitute a quorum.

(8) A vacancy in the membership of the commission does not impair the authority of the remaining commissioners to act.

(9) The Lieutenant Governor in Council shall fix the salaries of the commissioners.

(10) Where, in the opinion of the Lieutenant Governor in Council, a commissioner is interested in a matter before the commission, or where a commissioner is unable to act by reason of illness, absence or other cause, the Lieutenant Governor in Council may appoint another person to act as commissioner in the place of the commissioner who is interested or unable to act, and may fix his remuneration.

(11) The commission may appoint or engage accountants, engineers, legal counsel and other persons having special or technical knowledge necessary for the purpose of assisting the commission to carry out the provisions of this Act.

(12) The secretary shall

- (a) keep a record of the proceedings before the commission,
- (b) ensure that every rule, regulation and order of the commission drawn under the direction of the commission is signed by the chairman, deputy chairman or acting chairman, is sealed with the official seal, and is filed in the commission records,
- (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 or regulations on his duties or office.

(13) On the application of a person and on payment of the fee, the secretary shall deliver to the applicant a certified copy of any rule, regulation or order of the commission.

(14) A commissioner or employee of the commission shall not be required to give testimony in any civil action to which the commission is not a party about information obtained by him in the discharge of his duty.

Pipeline Act Amendment

154. Section 52 of the Pipeline Act, R.S.B.C. 1979, c. 328, is repealed and the following substituted:

B.C. Utilities Commission Investigations

52. For the purpose of aiding him in exercising his powers under this Part, the minister may in writing authorize the British Columbia Utilities Commission to investigate a matter and make recommendations to him, and where there is an authorization under this section, notwithstanding anything to the contrary in the Utilities Commission Act,

- (a) the commission is authorized to exercise its powers under section 49 of the Utilities Commission Act, and
- (b) where "public utility" is used in section 49, for the purposes of this Act it shall be deemed to mean "oil pipeline common carrier".

Public Service Labour Relations Act Amendment

155. Section 1 (1) of the Public Service Labour Relations Act, R.S.B.C. 1979, c. 346, is amended in paragraph (1) (iii) of the definition of "employee" by striking out "Energy Commission under the Energy Act" and substituting "Utilities Commission under the Utilities Commission Act".

Telecommunication Utility Act Repeal

156. The Telecommunication Utility Act, R.S.B.C. 1979, c. 401, is repealed.

Water Utility Act Amendment

157. Section 4 of the Water Utility Act, R.S.B.C. 1979, c. 430, is repealed and the following substituted:

Utilities Commission Act to apply

4. The duties, responsibilities and restraints to which a water utility is subject shall be the same as are imposed on a public utility under the Utilities Commission Act and the powers and

jurisdiction of the comptroller in respect of a water utility shall be the same as are vested in the British Columbia Utilities Commission under that Act, in respect of a public utility, and for these purposes

- (a) the water utility shall be deemed to be a public utility, and
- (b) the Utilities Commission Act, other than sections 33, 34, 35 and 51 (2) and (3), applies.

Repeal

158. The Energy Act, R.S.B.C. 1979, c. 108, is repealed.

Commencement

159. This Act comes into force on Proclamation.