

1973

# c 55 The Ontario Energy Board Amendment Act, 1973

Ontario

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## CHAPTER 55

## An Act to amend The Ontario Energy Board Act

*Assented to June 22nd, 1973  
Session Prorogued*

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 9 of section 1 of *The Ontario Energy Board Act*, <sup>s.1, par.9,</sup> being chapter 312 of the Revised Statutes of Ontario, 1970, <sup>re-enacted</sup> is repealed and the following substituted therefor:
  9. "Minister" means the Minister of Energy.
2. Subsection 1 of section 2 of the said Act is repealed and the <sup>s.2(1),</sup> following substituted therefor: <sup>re-enacted</sup>
  - (1) The Ontario Energy Board is continued and shall <sup>Board,</sup> consist of as many members, not fewer than five, as the <sup>composition</sup> Lieutenant Governor in Council may from time to time determine.
3. Section 8 of the said Act is amended by striking out "Lieutenant <sup>s.8,</sup> Governor in Council" in the first line and inserting in lieu <sup>amended</sup> thereof "Board".
4. Subsection 3 of section 13 of the said Act is amended by inserting <sup>s.13(3),</sup> after "Minister" in the second line "or by the Minister of <sup>amended</sup> Natural Resources".
- 5.—(1) Clauses *b* and *c* of subsection 7 of section 19 of the said <sup>s.19(7)(b,c),</sup> Act are repealed and the following substituted therefor: <sup>re-enacted</sup>
  - (*b*) in the case of the approval or fixing of rates or other charges that, in the opinion of the Board, are of limited application and not unjust or unreasonable in relation to the other rates and charges then being charged by the transmitter, distributor or storage company;
  - (*c*) in the case of the approval or fixing of prompt-payment discounts or delayed-payment penalties;

- (d) in the case of a transmitter, distributor or storage company that is selling, transmitting, distributing or storing gas, as the case may be, at a loss;
- (e) in the case of an application that does not contain a request for an increase in the rates or other charges then being charged for the sale, transmission, distribution or storage of gas by the transmitter, distributor or storage company;
- (f) in the case of the approval or fixing of increased rates or other charges of a gas transmitter, gas distributor or storage company where the purpose and effect of increasing the rates or other charges is to permit the gas transmitter, gas distributor or storage company to recover all or part of increases, approved, fixed, authorized or permitted by or under any statute, in the cost of gas purchased by or transmitted or stored for him or it; or
- (g) in the case of an order under subsection 8 of section 15 or subsection 11 of this section.

s. 19 (8),  
amended

- (2) Subsection 8 of the said section 19 is amended by striking out "entered into prior to the 1st day of January, 1965" in the fifth line.

s. 21,  
amended

6. Section 21 of the said Act is amended by adding thereto the following subsection:

(5) This section applies notwithstanding subsections 2 and 3 of section 46 of *The Expropriations Act*.

Application  
of section  
R.S.O. 1970,  
c. 154

s. 22 (2),  
amended

7. Subsection 2 of section 22 of the said Act is amended by striking out "a transmitter or distributor" in the third line and inserting in lieu thereof "any person".

s. 23,  
amended

8. Section 23 of the said Act is amended by adding thereto the following subsection:

(3) In this section, "Minister" means the Minister of Natural Resources.

Interpre-  
tation

s. 26 (1),  
amended

- 9.—(1) Subsection 1 of section 26 of the said Act is amended by adding "or" at the end of clause *a*, by striking out "or" at the end of clause *b* and by striking out clause *c*.

s. 26 (2, 3),  
re-enacted

- (2) Subsections 2 and 3 of the said section 26 are repealed and the following substituted therefor:

(2) No person, without first obtaining the leave of the Lieutenant Governor in Council, shall acquire such number of any class of shares of a gas transmitter, gas distributor or storage company that together with shares already held by such person or by such person and an associate or associates of such person will in the aggregate exceed 20 per cent of the shares outstanding of that class of the gas transmitter, gas distributor or storage company.

(3) This section does not apply to a mortgage or charge to secure any loan or indebtedness or to secure any bond, debenture or other evidence of indebtedness.

(4) An application for leave under this section shall be made to the Board, which shall hold a public hearing and submit its report and opinion to the Lieutenant Governor in Council.

(5) Notwithstanding any other provision of this Act, in this section, "associate", when used to indicate a relationship with any person or company, means,

- (a) a person who has the power to direct or cause to be directed the management and policies of the company;
- (b) a company whose management and policies the person has the power to direct or to cause to be directed;
- (c) another company whose management and policies are subject to a power to direct or to cause to be directed by a person who also has power to direct or cause to be directed the management and policies of the company;
- (d) a partner of that person or company acting by or for the partnership of which they are both partners;
- (e) a trust or estate in which such person or company has a substantial beneficial interest or as to which such person or company serves as trustee or in a similar capacity;
- (f) a spouse, son or daughter of that person;
- (g) a relative of such person or of his spouse, other than a relative referred to in clause *f* who has the same home as such person; or
- (h) any person who is obligated to act in concert with such person in exercising voting rights in respect of the shares of a company.

s. 33.  
amended

10. Section 33 of the said Act is amended by adding thereto the following subsection:

Proviso

(7) This section does not apply to an order made by the Board in respect of the conduct of a proceeding under section 37a.

s. 34.  
amended

11. Section 34 of the said Act is amended by striking out "sixty" in the second line and inserting in lieu thereof "twenty-eight".

s. 37a.  
enacted

12. The said Act is amended by adding thereto the following section:

Interpre-  
tation

*new*  
37a.—(1) In this section, "customer" means an industrial customer of The Hydro-Electric Power Commission of Ontario having an average annual power demand of 5,000 kilowatts or more or a municipal corporation or municipal electric utility commission.

Proposal by  
The Hydro-  
Electric  
Power  
Commission  
of Ontario  
to change  
rates or  
charges

(2) Where The Hydro-Electric Power Commission of Ontario proposes to change, effective on or after the 1st day of January, 1975, any of its rates or charges for any customer, it shall submit the proposal to the Minister not less than eight months before the date that the change is proposed to come into effect and the Minister shall refer the proposal to the Board.

Idem.  
public  
hearing  
by Board

(3) Where a proposal is referred to the Board by the Minister pursuant to subsection 2, the Board forthwith by public advertisement shall give at least twenty days notice of and shall hold a public hearing with respect to the proposal and shall make a report or an interim report thereon to the Minister at least four months before the proposed effective date of such change and where the Board makes an interim report within such time it shall make a final report as soon as possible thereafter.

Idem

(4) The Minister at any time may refer to the Board, in addition to any proposed changes in rates or charges mentioned in subsection 2,

- (a) any existing or proposed rates or charges of The Hydro-Electric Power Commission of Ontario to its customers or any class thereof;
- (b) any matter in any way affecting or related to rates or charges by The Hydro-Electric Power Commission of Ontario to its customers including, without limiting the generality of the foregoing, principles and practices respecting power costing, rate-making, financing, service reliability, system expansion and operations; or

- (c) the principles used by or appropriate for use by The Hydro-Electric Power Commission of Ontario in the exercise of any power to approve, determine or fix rates or other charges under section 91, 93 or 96 of *The Power Commission Act*,

R.S.O. 1970,  
c. 354

and the Board shall hold a public hearing at which it shall investigate and examine into the matter referred to it and shall then report thereon to the Minister.

- (5) The power of the Minister set out in clause *a* of subsection 4 does not apply to rates or charges in effect before the 1st day of January, 1975. Proviso

- (6) A reference under this section may be general or particular in terms and may specify criteria or factors to guide the Board in making its investigation, examination and report. Reference may be general or particular

- (7) The Board may at any time give directions as to the nature and extent of interventions by persons interested in a matter that is to be the subject of a public hearing held pursuant to this section, may set aside for future examination any issue that in its opinion requires a more prolonged examination and may make interim reports pending its final report with respect to the subject-matter of any reference. Directions by Board

- (8) The Board may appoint from among a class of retail customers of The Hydro-Electric Power Commission of Ontario having, in the opinion of the Board, a common interest, a person to represent that class at the hearing where it appears to the Board that the appointment should be made so that the class can be heard, but any other member of the class for which such appointment was made may be heard notwithstanding the appointment. Board may appoint class representative

- (9) An interim or final report of the Board under this section shall contain a summary of the information presented and the views expressed at the public hearing together with the opinion of the Board and its reasons therefor with respect to the matter or matters reported on and the signatures of the members of the Board making the report, and the Board shall deliver a copy of the report to The Hydro-Electric Power Commission of Ontario forthwith after its making. Report of Board

- (10) Upon delivery of a report under this section, the Board shall make reasonable arrangements for inspection or purchase of copies by the public. Public inspection of report

Commence-  
ment

**14.** This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

**15.** This Act may be cited as *The Ontario Energy Board Amendment Act, 1973*.