

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

2ND SESSION, 41ST LEGISLATURE, ONTARIO
66 ELIZABETH II, 2017

Bill 91

An Act to amend the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Mr. T. Smith

Private Member's Bill

1st Reading February 21, 2017

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill amends the *Ontario Energy Board Act, 1998* to give the Board the power to make rules and licence conditions respecting the periods during which gas or electricity may not be disconnected from low-volume consumers. Other amendments are also made to the Act, including the following:

1. It is provided that the Ontario Energy Board (“the Board”) may exercise its powers with respect to a regulated utility even where a liquidator or similar official has been appointed with respect to the regulated utility.
2. The specific timing periods for the Board’s orders respecting the reflection in rates of deferral and variance accounts are removed.
3. The Board is given the power to publish audit and compliance results of an inspection, subject to a determination of confidentiality.
4. The Board is given increased discretion when reviewing acquisitions involving generators owning transmission or distribution assets or transmitters or distributors owning generation assets and also given the power to exempt certain minor transactions from review.

The Bill also amends the *Electricity Act, 1998* to provide market participants with a more flexible appeals process that allows the Ontario Energy Board up to 120 days to make a final decision in an appeal from an amendment of the market rules.

An Act to amend the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

ELECTRICITY ACT, 1998

1 Subsection 33 (6) of the *Electricity Act, 1998* is amended by striking out “60 days” and substituting “120 days”.

ONTARIO ENERGY BOARD ACT, 1998

2 (1) Clause (d) of the definition of “enforceable provision” in section 3 of the *Ontario Energy Board Act, 1998* is amended by striking out “subsection 5 (3), (4), (5) or (6)” at the beginning and substituting “subsection 5 (4), (5), (6) or (7)”.

(2) The Act is amended by adding the following section:

Liquidators, etc.

21.1 (1) None of the following prevent the exercise by the Board of any jurisdiction conferred by this or any other Act with respect to a regulated utility:

1. The fact that a liquidator, receiver, manager or other official of the regulated utility has been appointed by a court in Ontario.
2. The fact that a writ of sequestration has been issued in Ontario with respect to the regulated utility.
3. The fact that a person is managing or operating the regulated utility under the authority of a court in Ontario.

Obligations of liquidators, etc.

(2) A regulated utility interim official shall manage and operate the regulated utility in accordance with,

- (a) this Act;
- (b) any other Act, to the extent that it confers jurisdiction on the Board;
- (c) any applicable licence, order or direction issued by the Board under this Act or an Act referred to in clause (b);
- (d) any applicable rule made under section 44 or code issued under section 70.1; and
- (e) any applicable assurance of voluntary compliance given to the Board under section 112.7.

Must obey Board

(3) A regulated utility interim official, and any person acting under a regulated utility interim official, shall obey all orders of the Board within its jurisdiction in respect of the regulated utility, and the Board may enforce its orders against the official or person even though the official or person is appointed by, or acts under the authority of, a court.

Definitions

(4) In this section,

“regulated utility” means,

- (a) a gas distributor, gas transmitter or storage company whose rates are approved or fixed by the Board under section 36, and
- (b) a distributor or transmitter whose rates are approved or fixed by the Board under section 78; (“service public réglementé”)

“regulated utility interim official” means,

- (a) a liquidator, receiver, manager or other official of a regulated utility who has been appointed by a court in Ontario,
- (b) a person acting in respect of a regulated utility under the authority of a writ of sequestration that has been issued in Ontario, or

- (c) a person who is managing or operating a regulated utility under the authority of a court in Ontario. (“agent intérimaire d’un service public réglementé”)

(3) Subsections 36 (4.1) and (4.2) of the Act are repealed and the following substituted:

Deferral or variance accounts

(4.1) If a gas distributor has a deferral or variance account that relates to the commodity of gas, the Board shall, from time to time, or as prescribed by the regulations, make an order under this section that determines whether and how amounts recorded in the account shall be reflected in rates.

Same

(4.2) If a gas distributor has a deferral or variance account that does not relate to the commodity of gas, the Board shall, from time to time, or as prescribed by the regulations, make an order under this section that determines whether and how amounts recorded in the account shall be reflected in rates.

(4) Subclause 44 (1) (b.1) (i) of the Act is repealed and the following substituted:

- (i) stopping the distribution of gas to a property, including the manner in which and the time within which the distribution stops or is to stop, and, with respect to a low-volume consumer as defined in section 47, periods during which the distribution may not be stopped,

(5) Section 44 of the Act is amended by adding the following subsection:

Conflict with *Public Utilities Act*

(4.1) In the event of a conflict between a rule of the Board made under subclause (1) (b.1) (i) and anything in section 59 of the *Public Utilities Act*, the rule of the Board prevails.

(6) Sub-subclause 70 (2) (d) (ii.1) (A) of the Act is repealed and the following substituted:

- (A) the disconnection of the supply of electricity to a consumer, including the manner in which and the time within which the disconnection takes place or is to take place, and with respect to a low-volume consumer, periods during which the disconnection may not take place,

(7) Section 70 of the Act is amended by adding the following subsection:

Conflict with *Electricity Act, 1998*

(8) In the event of a conflict between a licence condition referred to in sub-subclause (2) (d) (ii.1) (A) and anything in section 31 of the *Electricity Act, 1998*, the licence condition prevails.

(8) Subsections 78 (6.1) and (6.2) of the Act are repealed and the following substituted:

Deferral or variance accounts

(6.1) If a distributor has a deferral or variance account that relates to the commodity of electricity, the Board shall, from time to time, or as prescribed by the regulations, make an order under this section that determines whether and how amounts recorded in the account shall be reflected in rates.

Same

(6.2) If a distributor has a deferral or variance account that does not relate to the commodity of electricity, the Board shall, from time to time, or as prescribed by the regulations, make an order under this section that determines whether and how amounts recorded in the account shall be reflected in rates.

(9) Subsection 79.1 (1) of the Act is amended by striking out “shall provide” and substituting “may provide”.

(10) Subsection 82 (2) of the Act is repealed and the following substituted:

Order

(2) The Board shall make an order approving a proposal described in section 80 if it determines that,

- (a) the impact of the proposal would not adversely affect the development and maintenance of a competitive market and the proposal is not inconsistent with the objectives of the Board or the purposes of the *Electricity Act, 1998*; or
- (b) the proposal is required to maintain the reliability of the transmission or distribution system of the relevant transmitter or distributor.

(11) Subsection 82 (3) of the Act is repealed and the following substituted:

Same

(3) The Board shall make an order approving a proposal described in section 81 if it determines that,

- (a) the impact of the proposal would not adversely affect the development and maintenance of a competitive market; and
- (b) the proposal is not inconsistent with the objectives of the Board or the purposes of the *Electricity Act, 1998*.

(12) The Act is amended by adding the following section:

Exemptions

82.1 (1) The Board may, without a hearing, establish criteria exempting one or more classes of transactions or construction activities from the application of section 80 or 81.

No notice if exempt

(2) A person is not required to give notice of a proposal under section 80 or 81 if the proposal meets the criteria established by the Board under subsection (1).

(13) Subsection 110 (3) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Notice

(3) No document, record or copy thereof obtained by an inspector under section 107 or 108, and no information obtained by an inspector under section 107, that is not otherwise public, including being made public by reason of publication under section 111.1, shall be introduced in evidence in a Board proceeding unless,

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(14) Subsection 111 (2) of the Act is repealed and the following substituted:

Same

(2) If any document, record or information obtained by an inspector under section 107 or 108 that is not otherwise public, including being made public by reason of publication under section 111.1, is admitted in evidence in a proceeding under this Act or any other Act that gives powers or duties to the Board, the Board may rule on whether the document, record or information is to be kept confidential.

(15) The Act is amended by adding the following section:

Publication of inspection reports

111.1 (1) Despite section 111 but subject to subsection (2), the Board may publish a document, record or information obtained by an inspector under section 107 or 108 as part of a report that describes an inspection conducted under this Part and the results or findings of the inspection.

Non-publication of confidential material

(2) The Board shall not publish a document, record or information under subsection (1) that is not otherwise public unless the Board gives the owner of the document or record or the person who provided the document, record or information an opportunity to make representations with respect to the intended publication.

(16) Section 112 of the Act is repealed and the following substituted:

Evidence

112 No document, record or information obtained by an inspector under this Part that is not otherwise public, including being made public by reason of publication under section 111.1, is admissible in evidence in any proceeding except a proceeding in respect of an order of the Board or a proceeding in respect of an offence under section 126.

(17) Clause 127 (1) (j.19) of the Act is repealed and the following substituted:

(j.19) prescribing periods of time for the purpose of subsections 36 (4.1) and (4.2) and 78 (6.1) and (6.2);

Commencement

3 This Act comes into force on the day it receives Royal Assent.

Short title

4 The short title of this Act is the *Stopping Electricity Disconnections in the Winter Act, 2017*.