

2016 Bill 27

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 27**

## **RENEWABLE ELECTRICITY ACT**

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THE MINISTER OF ENERGY

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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## BILL 27

2016

### RENEWABLE ELECTRICITY ACT

(Assented to , 2016)

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### **Preamble**

WHEREAS the promotion of renewable electricity generation is a core component of the Government of Alberta's overall approach to reducing greenhouse gas emissions and improving air quality;

WHEREAS the Government of Alberta believes that it is desirable to promote the growth of renewable electricity generation in Alberta and is committed to funding programs to do so; and

WHEREAS the Government of Alberta believes that it is desirable to establish a target for electricity produced in Alberta from renewable energy resources;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

### **Definitions**

**1** In this Act,

- (a) "Commission" means the Alberta Utilities Commission established by the *Alberta Utilities Commission Act*;
- (b) "electric energy" means electric energy as defined in the *Electric Utilities Act*;
- (c) "electricity" means electricity as defined in the *Electric Utilities Act*;
- (d) "generator" means a person that has entered into a renewable electricity support agreement with the ISO under section 7(4);
- (e) "ISO" means the Independent System Operator established by the *Electric Utilities Act*;
- (f) "large-scale renewable electricity generation" means generation of renewable electricity from a power plant with a total nominal capacity of at least 5 megawatts;
- (g) "MSA" means the Market Surveillance Administrator under the *Alberta Utilities Commission Act*;
- (h) "Minister" means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;

- (i) “renewable electricity” means electricity that has been produced from a renewable energy resource;
- (j) “renewable electricity program” means a program proposal approved under section 5(3);
- (k) “renewable electricity support agreement” means an agreement entered into under section 7(4);
- (l) “renewable energy resource” means an energy resource that occurs naturally and that can be replenished or renewed within a human lifespan, including, but not limited to,
  - (i) moving water,
  - (ii) wind,
  - (iii) heat from the earth,
  - (iv) sunlight, and
  - (v) sustainable biomass.

**Renewable electric energy targets, ministerial duties**

**2(1)** A target is established that at least 30% of the electric energy produced in Alberta, measured on an annual basis, will be produced from renewable energy resources.

**(2)** The Minister shall ensure that the target established in subsection (1) is met by the end of 2030.

**(3)** The Minister shall, in compliance with any regulations made under section 18(b) or (c),

- (a) establish interim targets,
- (b) conduct periodic progress reviews until the 30% renewable electric energy target is met, and
- (c) make the results of the periodic progress reviews available to the public.

**Ministerial direction, objectives, criteria  
re programs, proposals**

**3(1)** The Minister may, from time to time or on a periodic basis, direct the ISO to develop a proposal for a program to promote large-scale renewable electricity generation in Alberta.

**(2)** The Minister may establish

- (a) renewable electricity program objectives that promote specific goals, including environmental, social or economic goals, and
- (b) specific evaluation criteria to be used by the ISO in developing a proposal for a renewable electricity program and in implementing a renewable electricity program to meet the objectives.

**(3)** The Minister shall provide the ISO with any objectives or criteria established under this section.

**Development of renewable electricity  
program proposals**

**4** When directed by the Minister under section 3(1) to develop a proposal, the ISO shall develop a proposal for a renewable electricity program that

- (a) promotes large-scale renewable electricity generation in Alberta,
- (b) employs a fair and transparent competitive process,
- (c) does not jeopardize the safe, reliable and economic operation of the interconnected electric system, as defined in the *Electric Utilities Act*, and
- (d) addresses the renewable electricity program objectives and evaluation criteria, if any, established by the Minister under section 3(2).

**Ministerial approval of renewable electricity  
program proposal**

**5(1)** The ISO shall submit a proposal for a renewable electricity program developed under section 4 to the Minister for approval.

(2) A proposal submitted under subsection (1) must be accompanied with

- (a) details respecting
  - (i) the competitive process that would be held to implement the program and its associated objectives in a cost-effective manner,
  - (ii) the manner in which the program would meet the renewable electricity program objectives, if any, established by the Minister under section 3(2),
  - (iii) the criteria that would be used to evaluate participants in the competitive process, including any evaluation criteria established by the Minister under section 3(2), and the manner in which participants and renewable electricity projects would be evaluated in relation to the criteria,
  - (iv) the manner in which the ministerial renewable electricity program objectives and evaluation criteria would be made public and communicated to interested parties prior to the competitive process,
  - (v) the costs of the development of the program proposal,
  - (vi) an estimate of the costs and expenses to implement the program and to administer the renewable electricity support agreements entered into with respect to the program,
  - (vii) an estimate of the payments that will be made under the renewable electricity support agreements,
  - (viii) the amount of the fees that the ISO proposes to levy on participants and generators to cover the prudent costs and expenses it expects to incur in developing the proposal for the renewable electricity program, implementing the renewable electricity program and administering renewable electricity support agreements, and
  - (ix) any other matter, as required by the Minister,

- (b) a copy of the description, to be provided to participants in the competitive process, of the terms and conditions that would be included in the renewable electricity support agreements, and
- (c) a copy of the draft renewable electricity support agreement.

**(3)** The Minister may approve, with or without modification, a proposal for a renewable electricity program submitted under this section.

**Fairness advisor**

**6** The ISO shall engage a person who is external to the ISO to serve as a fairness advisor

- (a) to provide advice to the ISO with respect to the development of the competitive process referred to in section 5 to ensure that it is a fair process, and
- (b) to ensure that the implementation of a program under section 7 is conducted fairly.

**Implementation of renewable electricity programs**

**7(1)** The ISO shall hold a competitive process in respect of each renewable electricity program in accordance with the details provided under section 5(2)(a) in respect of the program.

**(2)** The ISO shall advise the Minister of the results of the competitive process, including

- (a) the quantity of renewable electricity capacity that has been offered in respect of each renewable electricity project proposed in the competitive process, and
- (b) an updated estimate of the costs and expenses the ISO will incur to administer the renewable electricity support agreements and an updated estimate of the payments that will be made by the ISO under the renewable electricity support agreements.

**(3)** If the Minister approves



- (a) the total quantity of renewable electricity in respect of which renewable electricity support agreements may be entered into,
- (b) the estimate of the costs and expenses to administer the renewable electricity support agreements and the estimate of the payments that will be made under the renewable electricity support agreements, and
- (c) the final form of the renewable electricity support agreement,

the ISO shall select the successful participants from the competitive process.

**(4)** The ISO is authorized to enter into a renewable electricity support agreement with a successful participant selected under subsection (3) for the purposes of

- (a) imposing obligations on the selected participant in respect of the development and operation of a renewable electricity project, and
- (b) setting out the terms under which payments will be made between the ISO and the selected participant in respect of the renewable electricity generated by the renewable electricity project.

**(5)** The ISO shall file with the Minister a copy of each renewable electricity support agreement that is entered into with a successful participant in the competitive process.

**ISO interest in generating unit**

**8(1)** Despite section 9(6) of the *Electric Utilities Act*, the ISO may, in accordance with any commercial terms that are part of a renewable electricity program, hold a security or other interest in a generating unit, as defined in that Act, as security in relation to generator default or insolvency.

**(2)** The ISO shall

- (a) notify the Minister prior to enforcing a security interest held pursuant to subsection (1), and

- (b) enforce a security interest in accordance with any direction of the Minister.

**(3)** Any interest in a generating unit held by the ISO pursuant to subsection (1), and any ownership interest resulting from the enforcement of a security interest, shall be transferred or assigned in accordance with any direction of the Minister.

**Administration of renewable electricity support agreements**

**9** The ISO shall

- (a) administer the renewable electricity support agreements that have been entered into,
- (b) provide a statement to the Minister on a monthly basis setting out the amounts to be paid by the ISO to, or the amounts to be collected by the ISO from, each generator, in accordance with the renewable electricity support agreements, and
- (c) pay the amounts, or collect the amounts, that are to be paid or collected from each generator in accordance with the statement provided under clause (b).

**Payments to and by ISO re renewable electricity support agreements**

**10(1)** If, according to a monthly statement provided under section 9(b), the ISO is to pay a generator, the Minister shall pay the ISO the amount set out in the statement.

**(2)** If, according to a monthly statement provided under section 9(b), the ISO is to collect funds from a generator, the ISO shall, on receipt of those funds, pay them to the Minister.

**ISO funding re proposal development, program implementation, agreement administration**

**11(1)** The ISO shall levy reasonable fees

- (a) on the participants in the competitive process, and

- (b) on the generators in accordance with the terms and conditions of the respective renewable electricity support agreements

for the purposes of recovering the prudent costs and expenses the ISO incurs in developing a proposal for a renewable electricity program, implementing a renewable electricity program and administering renewable electricity support agreements.

(2) If the Minister determines that the ISO's costs and expenses are prudent and that the fees levied under subsection (1) are insufficient to recover those costs and expenses, the Minister shall pay the ISO the amount of the shortfall.

#### **Funds for payment to ISO**

**12** On notice from the Minister to the President of Treasury Board, Minister of Finance, payments shall be paid from the General Revenue Fund for the amounts payable by the Minister to the ISO under sections 10(1) and 11(2) that have not been paid from the Climate Change and Emissions Management Fund under the *Climate Change and Emissions Management Act*.

#### **Annual report**

**13(1)** The ISO shall, within 120 days after the end of its fiscal year, submit an annual report to the Minister, containing the information as required by the Minister in respect of

- (a) renewable electricity support agreements, including information about the amounts paid by the ISO and the amounts collected by the ISO under the renewable electricity support agreements during the fiscal year,
- (b) the costs and expenses incurred by the ISO during the fiscal year in developing proposals for renewable electricity programs, implementing renewable electricity programs and administering renewable electricity support agreements, and
- (c) the fees levied during the fiscal year on participants in a competitive process and on generators.

(2) The ISO shall, on request, provide to the Minister any other reports and information relating to its duties, responsibilities and functions under this Act.

#### **Ministerial direction to ISO**

**14(1)** The Minister may provide directions to the ISO for the purposes of enhancing accountability or the control of costs in respect of renewable electricity programs or renewable electricity support agreements under this Act.

**(2)** The ISO shall comply with any directions provided under subsection (1), subject to the obligations imposed on the ISO by renewable electricity support agreements.

#### **Application of other enactments**

**15** Except where specifically provided to the contrary, nothing in this Act or the regulations relieves any person from compliance with any other enactment.

#### **Investigation, consideration of complaints re ISO program proposal development not permitted**

**16(1)** Despite sections 39, 41 and 42 of the *Alberta Utilities Commission Act*, the MSA is not permitted to investigate complaints against the ISO regarding the development of a proposal for a renewable electricity program.

**(2)** Despite section 26 of the *Electric Utilities Act*, the Commission is not permitted to consider complaints against the ISO regarding the development of a proposal for a renewable electricity program.

#### **Deemed market participant**

**17** A person who

- (a) participates in a competitive process under this Act, or
- (b) is a generator

is deemed to be an electricity market participant for the purposes of sections 39 and 46 of the *Alberta Utilities Commission Act* and a market participant for the purposes of section 6 of the *Electric Utilities Act*.

#### **Regulations**

**18** The Lieutenant Governor in Council may make regulations

- (a) respecting the calculation of electric energy produced in Alberta and the proportion of that energy that is produced from renewable energy resources, for the purpose of section 2(1);
- (b) respecting the establishment of interim targets;
- (c) respecting the review of progress and effectiveness of programs toward achieving renewable electricity targets, including, without limitation, regulations respecting the results of the review;
- (d) respecting the development of renewable electricity program proposals and the implementation of renewable electricity programs;
- (e) respecting further or additional powers, duties and functions of the person serving as fairness advisor;
- (f) respecting the powers, duties and functions of the ISO, the MSA and the Commission under this Act, including, without limitation, regulations adding to, clarifying, limiting or restricting a power, duty or function of the ISO, the MSA or the Commission under this Act;
- (g) respecting funding agreements between the Minister and the ISO for the purposes of this Act;
- (h) respecting annual reports under section 13;
- (i) respecting audits of the ISO in respect of renewable electricity programs and renewable electricity support agreements;
- (j) defining any word or expression used but not defined in this Act;
- (k) respecting any other matter that the Lieutenant Governor in Council considers necessary or advisable to carry out the intent of this Act.

## **Consequential Amendments, Related Amendments and Coming into Force**

### **Amends SA 2007 cA-37.2**

**19 The *Alberta Utilities Commission Act* is amended in section 39(3)(b) by striking out “or” at the end of subclause (ii) and adding the following after subclause (ii):**

- (ii.1) the *Renewable Electricity Act*, the regulations under that Act and any renewable electricity support agreements entered into under that Act, in the case of an electricity market participant, or

### **Amends SA 2003 cE-5.1**

**20 The *Electric Utilities Act* is amended**

- (a) in section 14(1) by striking out “and” at the end of clause (c), adding “and” at the end of clause (d) and adding the following after clause (d):
  - (e) its estimated revenue from fees levied and payments received under the *Renewable Electricity Act*.
- (b) in section 16 by renumbering it as section 16(1) and by adding the following after subsection (1):
  - (2) Subsection (1) does not apply to the development of renewable electricity program proposals under the *Renewable Electricity Act*.
- (c) in section 17
  - (i) by adding the following after clause (l.1):

## Explanatory Notes

**19** Amends chapter A-37.2 of the Statutes of Alberta, 2007.  
Section 39(3) presently reads in part:

- (3) In carrying out its mandate, the Market Surveillance Administrator shall assess whether or not*
- (b) the person carrying out the conduct has complied with or is complying with*
    - (i) the Electric Utilities Act, the regulations under that Act, the ISO rules, reliability standards, market rules and any arrangements entered into under the Electric Utilities Act or the regulations under that Act, in the case of an electricity market participant,*
    - (ii) the Gas Utilities Act, the regulations under that Act, market rules and any arrangements entered into under the Gas Utilities Act or the regulations under that Act, in the case of a natural gas market participant, or*
    - (iii) a decision, order or rule of the Commission,*

**20** Amends chapter E-5.1 of the Statutes of Alberta, 2003.  
Sections 14(1), 16, 17, 20 and 142(2)(g) presently read in part:

- 14(1) The Independent System Operator must prepare a budget for each fiscal year setting out*
- (a) the estimated expenditures, costs and expenses of the Independent System Operator to carry out its powers, duties, responsibilities and functions, which may include expenditures for capital assets allocated over the expected useful life of the asset,*
  - (b) the aggregate estimated expenditures, costs and expenses in the approved budget of the Market Surveillance Administrator,*
  - (c) its estimated revenue from ISO fees, and*

- (1.2) to develop proposals for renewable electricity programs under the *Renewable Electricity Act*;
  - (1.3) to implement renewable electricity programs and to administer renewable electricity support agreements under the *Renewable Electricity Act*;
  - (ii) **in clause (m) by striking out** “under this Act and regulations” **and substituting** “under this Act or any other enactment”.
- (d) **in section 20(1) by adding the following after clause (k):**
- (k.1) any matter as the ISO considers necessary or advisable to carry out its duties, responsibilities and functions under the *Renewable Electricity Act*;
- (e) **in section 142(2)(g) by adding** “or the *Renewable Electricity Act*” **after** “purposes of this Act”.

**Amends RSA 2000 cE-12**

**21 The *Environmental Protection and Enhancement Act* is amended in the Schedule of Activities, section 2 by striking out “or” at the end of clause (hh) and by adding the following after clause (ii):**

- (jj) the generating of wind electric power, or
- (kk) the generating of solar electric power.



*(d) its estimated revenue from the ISO tariff.*

*16 The Independent System Operator must exercise its powers and carry out its duties, responsibilities and functions in a timely manner that is fair and responsible to provide for the safe, reliable and economic operation of the interconnected electric system and to promote a fair, efficient and openly competitive market for electricity.*

*17 The Independent System Operator has the following duties:*

*(l) to administer load settlement;*

*(l.1) to monitor the compliance of market participants with rules made under sections 19, 20 and 24.1;*

*(m) to perform any other function or engage in any activity the Independent System Operator considers necessary or advisable to exercise its powers and carry out its duties, responsibilities and functions under this Act and regulations.*

*20(1) The Independent System Operator may make rules respecting*

*142(2) The Lieutenant Governor in Council may make regulations*

*(g) suspending the operation of any provision of this Act or making any provision of this Act inapplicable if, in the Minister's opinion, that is necessary or advisable to carry out the purposes of this Act.*

**21** Amends chapter E-12 of the Revised Statutes of Alberta 2000. Schedule of Activities, section 2 presently reads in part:

*2 The construction, operation or reclamation of a plant, structure or thing for*

*(hh) the process of electroplating, or*

*(ii) any other industrial, manufacturing or processing purpose.*

**Amends RSA 2000 cH-16**

**22** The *Hydro and Electric Energy Act* is amended in section 3(1) by striking out “and” at the end of clause (c) and adding the following after clause (c):

- (c.1) shall not have regard to whether the generating unit is the subject of a renewable electricity support agreement under the *Renewable Electricity Act*, and

**Coming into force**

**23** This Act comes into force on Proclamation.

**22** Amends chapter H-16 of the Revised Statutes of Alberta 2000.  
Section 3(1) presently reads:

*3(1) Where the Commission is considering*

- (a) an application under section 11 for the construction or operation of a generating unit as defined in the Electric Utilities Act, or*
- (b) an application under section 18 for connection of a generating unit as defined in the Electric Utilities Act,*

*the Commission, for the purposes of the consideration required to be given by the Commission under section 17 of the Alberta Utilities Commission Act and in order to determine whether the purposes of this Act will be achieved,*

- (c) shall not have regard to whether the generating unit is an economic source of electric energy in Alberta or to whether there is a need for the electric energy to be produced by such facility in meeting the requirements for electric energy in Alberta or outside Alberta, and*
- (d) must have regard for the purposes of the Electric Utilities Act.*

**23** Coming into force.

