



BILL NO. 404

Government Bill

*1st Session, 64th General Assembly
Nova Scotia
2 Charles III, 2024*

An Act to Reform the Law Respecting Energy and Electricity

CHAPTER 2
ACTS OF 2024

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
APRIL 5, 2024**

The Honourable Tory Rushton
Minister of Natural Resources and Renewables

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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An Act to Reform the Law Respecting Energy and Electricity

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Energy Reform (2024) Act*.

PART I

ENERGY AND REGULATORY BOARDS ACT

2 Schedule A, the *Energy and Regulatory Boards Act*, comes into force as provided in that Schedule.

PART II

MORE ACCESS TO ENERGY ACT

3 Schedule B, the *More Access to Energy Act* comes into force as provided in that Schedule.

PART III

APPRENTICESHIP AND TRADES QUALIFICATIONS ACT

4 Subsection 2(1) of Chapter 1 of the Acts of 2003, the *Apprenticeship and Trades Qualifications Act*, as amended by Chapter 23 of the Acts of 2006, Chapters 3 and 41 of the Acts of 2014 and Chapter 7 of the Acts of 2018, is further amended by

(a) adding immediately after clause (t) the following clause:

(ta) “Regulatory and Appeals Board” means the Nova Scotia Regulatory and Appeals Board established under the *Energy and Regulatory Boards Act*;

and

(b) striking out clause (vc).

5 Subsection 24C(4) of Chapter 1, as enacted by Chapter 7 of the Acts of 2018, is amended by striking out “30” and substituting “36”.

6 Chapter 1 is further amended by

(a) striking out “Utility and Review” wherever it appears and substituting in each case “Regulatory and Appeals”; and

(b) striking out “*Utility and Review Board Act*” wherever it appears and substituting in each case “*Energy and Regulatory Boards Act*”.

PART IV

ASSESSMENT ACT

7 Chapter 23 of the Revised Statutes, 1989, the *Assessment Act*, is amended by striking out “Utility and Review” wherever it appears and substituting in each case “Regulatory and Appeals”.

PART V

COMMUNITY OF SACKVILLE LANDFILL COMPENSATION ACT

8 Clause 2(c) of Chapter 71 of the Acts of 1993, the *Community of Sackville Landfill Compensation Act*, as enacted by Chapter 38 of the Acts of 2015, is amended by striking out “Utility and Review Board.” and substituting “Regulatory and Appeals Board;”.

PART VI

CONSEIL SCOLAIRE ACADIEN PROVINCIAL ACT

LOI SUR LE CONSEIL SCOLAIRE ACADIEN PROVINCIAL

9 The definition of “Utility and Review Board” in subsection 3(1) of Chapter 10 of the Acts of 2023, the *Conseil scolaire acadien provincial Act*, is repealed and the following definition substituted and placed in alphabetical order:

“Regulatory and Appeals Board” means the Nova Scotia Regulatory and Appeals Board;

10 Chapter 10 is further amended by striking out “Utility and Review” wherever it appears and substituting in each case “Regulatory and Appeals”.

9 Le paragraphe 3(1) du chapitre 10 des Lois 2023, *Loi sur le Conseil scolaire acadien provincial*, est modifié par l’abrogation de la définition de « Commission des services publics et de révision » et son remplacement par ce qui suit :

« Commission de réglementation et d’appels » La Nova Scotia Regulatory and Appeals Board.

10 Le chapitre 10 est modifié par la suppression de « des services publics et de révision » dans toutes ses occurrences et son remplacement par « de réglementation et d’appels ».

PART VII

CONSUMER PROTECTION ACT

11 Chapter 92 of the Revised Statutes, 1989, the *Consumer Protection Act*, is amended by striking out “Utility and Review” wherever it appears and substituting in each case “Regulatory and Appeals”.

12 Subsection 18T(11) of Chapter 92, as enacted by Chapter 25 of the Acts of 2006, is amended by striking out “*Utility and Review Board Act*” and substituting “*Energy and Regulatory Boards Act*”.

PART VIII

EDUCATION (CSAP) ACT

13 Subsection 3(1) of Chapter 1 of the Acts of 1995-96, the *Education (CSAP) Act*, as amended by Chapter 11 of the Acts of 2000, Chapter 16 of the Acts of 2005, Chapter 37 of the Acts of 2010, Chapter 21 of the Acts of 2012 and Chapter 16 of the Acts of 2015, is further amended by

- (a) adding immediately after clause (ac) the following clause:
 - (aca) “Regulatory and Appeals Board” means the Nova Scotia Regulatory and Appeals Board;
- (b) striking out the semicolon at the end of subclause (aka)(xvi) and substituting a period; and
- (c) striking out clause (al).

14 Chapter 1 is further amended by striking out “Utility and Review” wherever it appears and substituting in each case “Regulatory and Appeals”.

PART IX

ELECTRICITY ACT

15 Subsection 2(1) of Chapter 25 of the Acts of 2004, the *Electricity Act*, as amended by Chapter 14 of the Acts of 2010, Chapter 15 of the Acts of 2011, Chapter 34 of the Acts of 2013, Chapter 31 of the Acts of 2015, Chapters 12 and 44 of the Acts of 2022 and Chapter 6 of the Acts of 2023, is further amended by

- (a) striking out “Utility and Review” in clause (a) and substituting “Energy”;
- (b) relettering clause (aaaa) as (aaaac); and
- (c) adding immediately before clause (aaaac), as relettered, the following clauses:
 - (aaaa) “IESO” means the Nova Scotia Independent Energy System Operator established under the *More Access to Energy Act*;
 - (aaaaa) “IESO-controlled grid” has the same meaning as in the *More Access to Energy Act*;
 - (aaaab) “market participant” has the same meaning as in the *More Access to Energy Act*;

16 Section 2C of Chapter 25, as enacted by Chapter 12 of the Acts of 2022, is amended by adding immediately after subsection (2) the following subsection:

(3) Notwithstanding subsections (1) and (2), the IESO shall maintain and administer standards and processes to govern interconnections to the IESO-controlled grid.

17 (1) Subsection 3(2) of Chapter 25 is repealed and the following subsection substituted:

(2) The IESO shall administer the open access transmission tariff to enable the purchase of electricity for the purpose of subsection (1) and, for greater certainty, Section 77 of the *Public Utilities Act* does not apply.

(2) Subsection 3(3) of Chapter 25 is amended by adding “and market participants” immediately after “customers”.

18 Subsection 3G(1) of Chapter 25, as enacted by Chapter 34 of the Acts of 2013, is amended by adding “, or the IESO in relation to matters falling under its scope of authority pursuant to the *More Access to Energy Act*,” immediately after “Incorporated” the first time it appears.

19 Chapter 25 is further amended by adding immediately after Section 4AA the following Section:

4AB Where a public utility is awarded a contract by the IESO, it shall procure all electricity and energy storage in accordance with the *More Access to Energy Act* and the regulations made under that Act.

20 Subsection 4D(2) of Chapter 25, as enacted by Chapter 6 of the Acts of 2023, is amended by striking out “The” and substituting “Notwithstanding any procurement functions of the IESO under the *More Access to Energy Act*, the”.

21 Chapter 25 is further amended by adding immediately after Section 4D the following Section:

4E (1) In this Section,

(a) “curtailment” means, based on instruction sent to a generation facility from the system operator, the decrease or cessation of the generation facility’s generation output;

(b) “system operator” means the IESO or Nova Scotia Power Incorporated.

(2) This Section applies to a generation facility that has received, on or after March 1, 2024, a power-purchase agreement under a procurement initiated under Section 4B.

(3) A generation facility may not be compensated for any curtailment until such curtailment exceeds five per cent of its total energy bid as defined within the generation facility’s power-purchase agreement.

(4) Where a generation facility's curtailment exceeds five per cent of its total energy bid, the generation facility shall be compensated for the curtailment by the purchaser of the generation facility's generation output at the rate set out in the power-purchase agreement unless

(a) the generation facility was not generating electricity at the time the system operator instructed the facility to decrease or stop its generation output; or

(b) the instruction to decrease or stop the generation facility's generation output was sent due to an unforeseeable emergency or *force majeure* event.

(5) The system operator shall determine and define what constitutes an emergency or *force majeure* event for the purpose of clause (4)(b) and, where requested by a generation facility, shall provide that reasoning to the generation facility.

(6) A dispute respecting a curtailment may be appealed to the Board.

PART X

ENDANGERED SPECIES ACT

22 Chapter 11 of the Acts of 1998, the *Endangered Species Act*, is amended by striking out "Utility and Review" wherever it appears and substituting in each case "Regulatory and Appeals".

PART XI

ENERGY RESOURCES CONSERVATION ACT

23 Chapter 147 of the Revised Statutes, 1989, the *Energy Resources Conservation Act*, is amended by striking out "Utility and Review" wherever it appears and substituting in each case "Energy".

PART XII

EXPROPRIATION ACT

24 Chapter 156 of the Revised Statutes, 1989, the *Expropriation Act*, is amended by striking out "Utility and Review" wherever it appears and substituting in each case "Regulatory and Appeals".

25 Chapter 156 is further amended by striking out "UTILITY AND REVIEW" in the heading immediately before Section 47 and substituting "REGULATORY AND APPEALS".

PART XIII

FIRE SAFETY ACT

26 Section 40 of Chapter 6 of the Acts of 2002, the *Fire Safety Act*, is amended by striking out “Utility and Review Board established pursuant to the *Utility and Review Board Act*” and substituting “Regulatory and Appeals Board established pursuant to the *Energy and Regulatory Boards Act*”.

27 Clause 51(1)(u) of Chapter 6 is amended by striking out “Utility and Review” and substituting “Regulatory and Appeals”.

PART XIV

GAMING CONTROL ACT

28 Clause 3(r) of Chapter 4 of the Acts of 1994-95, the *Gaming Control Act*, is repealed and the following clause substituted:

(r) “Regulatory and Appeals Board” means the Nova Scotia Regulatory and Appeals Board.

29 Chapter 4 is further amended by striking out “Utility and Review” wherever it appears and substituting in each case “Regulatory and Appeals”.

PART XV

GAS DISTRIBUTION ACT

30 Section 2 of Chapter 4 of the Acts of 1997, the *Gas Distribution Act*, is amended by

- (a) striking out “and” at the end of clause (a);
- (b) striking out the period at the end of clause (b) and substituting “; and”; and
- (c) adding immediately after clause (b) the following clause:
 - (c) facilitate the use of gas as a hybrid peaking resource to satisfy the integrated electricity system demand.

31 Section 3 of Chapter 4, as amended by Chapter 18 of the Acts of 2002, Chapter 48 of the Acts of 2014 and Chapter 55 of the Acts of 2022, is further amended by

- (a) relettering clauses (a), (aa) and (ab) as (aa), (ab) and (ac), respectively;
- (b) adding immediately before clause (aa), as relettered, the following clause:
 - (a) “alternative form of regulation” means a method of establishing just and reasonable charges, rates, tolls and tariffs by performance-based regulation, including earnings sharing, price caps, price indexing formulas, ranges of authorized rates of return, and the increase, reduction or suspension of regu-

latory requirements, without regard to methods based strictly upon cost of service, rate base and rate of return;

(c) striking out “Utility and Review” in clause (aa), as relettered, and substituting “Energy”;

(d) adding “including to provide gas as a hybrid peaking resource,” immediately after “consumption,” in clause (d);

(e) relettering clause (da) as (dc);

(f) adding immediately after clause (d) the following clauses:

(da) “hybrid peaking resources” refers to electricity resources and non-electricity resources used in combination to satisfy the integrated electricity system demand;

(db) “integrated electricity system” means the IESO-controlled grid and the structures, equipment or other things that connect the IESO-controlled grid with transmission systems and distribution systems in the Province and transmission systems outside the Province;

(g) striking out the period at the end of clause (f) and substituting a semicolon;
and

(h) adding immediately after clause (f) the following clauses:

(g) “sustainable development” has the same meaning as in the *Environment Act*;

(h) “sustainable prosperity” has the same meaning as in the *Environmental Goals and Climate Change Reduction Act*.

32 (1) Section 22 of Chapter 4 of the Acts of 1997, as amended by Chapter 18 of the Acts of 2002, is further amended by adding immediately after subsection (3) the following subsection:

(3A) In approving or fixing rates, tolls or charges, the Board shall give appropriate consideration to the extent to which such rates, tolls or charges

(a) support innovation in the provision of gas by a gas delivery system;

(b) ensure the provision of secure and reliable energy supply in the Province; and

(c) support sustainable development and sustainable prosperity.

(2) Subsection 22(4) of Chapter 4 is amended by adding “or (3A),” immediately after “(3)”.

(3) Section 22 of Chapter 4 is further amended by adding immediately after subsection (4) the following subsection:

(4A) In approving or fixing rates, tolls or charges pursuant to this Act, the Board may adopt any method or technique that it considers appropriate, including an alternative form of regulation.

(4) Subsection 22(5) of Chapter 4 is amended by striking out “(1) or (4)” and substituting “(1), (4) or (4A)”.

PART XVI

HALIFAX-DARTMOUTH BRIDGE COMMISSION ACT

33 Clause 2(a) of Chapter 7 of the Acts of 2005, the *Halifax-Dartmouth Bridge Commission Act*, is amended by striking out “Utility and Review” and substituting “Regulatory and Appeals”.

PART XVII

HALIFAX REGIONAL MUNICIPALITY CHARTER

34 Clause 3(f) of Chapter 39 of the Acts of 2008, the *Halifax Regional Municipality Charter*, is amended by striking out “Utility and Review” and substituting “Regulatory and Appeals”.

35 Clause 188(1)(a) of Chapter 39, as enacted by Chapter 9 of the Acts of 2018, is amended by adding “Nova Scotia Energy” immediately before “Board”.

36 (1) Subsection 266(6) of Chapter 39 is amended by striking out “28(1) of the *Utility and Review Board Act*” and substituting “34(1) of the *Energy and Regulatory Boards Act*”.

(2) Subsection 266(6A) of Chapter 39, as enacted by Chapter 18 of the Acts of 2023, is amended by striking out “28(1) of the *Utility and Review Board Act*” and substituting “34(1) of the *Energy and Regulatory Boards Act*”.

37 Subsection 313(3) of Chapter 39 is amended by adding “Nova Scotia Energy” immediately before “Board”.

PART XVIII

HALIFAX REGIONAL WATER COMMISSION ACT

38 Clause 2(1)(a) of Chapter 55 of the Acts of 2007, the *Halifax Regional Water Commission Act*, is amended by striking out “Utility and Review” and substituting “Regulatory and Appeals”.

39 Section 7 of Chapter 55, as enacted by Chapter 23 of the Acts of 2016, is amended by adding immediately after subsection (5) the following subsections:

(6) Where the Commission brings an application to the Board pursuant to the *Public Utilities Act* that relates to the Commission’s activities under clause (1)(c) or (d), the Chair of the Board may refer the matter, in whole or in part, to the Nova Scotia Energy Board.

(7) Notwithstanding subsection (1), where the Commission engages in any activities that fall within the definition of “service” under subclauses 2(f)(vi) to (ix) of the *Public Utilities Act*, the Commission shall be subject to the supervision and regulation of the Nova Scotia Energy Board.

PART XIX

HEALTH PROTECTION ACT

40 Chapter 4 of the Acts of 2004, the *Health Protection Act*, is amended by striking out “Utility and Review” wherever it appears and substituting in each case “Regulatory and Appeals”.

PART XX

HERITAGE PROPERTY ACT

41 Chapter 199 of the Revised Statutes, 1989, the *Heritage Property Act*, is amended by striking out “Utility and Review” wherever it appears and substituting in each case “Regulatory and Appeals”.

PART XXI

LIQUOR CONTROL ACT

42 Section 2 of Chapter 260 of the Revised Statutes, 1989, the *Liquor Control Act*, as amended by Chapter 28 of the Acts of 2000, Chapter 4 of the Acts of 2001, Chapter 30 of the Acts of 2002, Chapter 21 of the Acts of 2011, Chapter 8 of the Acts of 2012, Chapter 18 of the Acts of 2014, Chapter 18 of the Acts of 2022 and Chapter 15 of the Acts of 2023, is further amended by

(a) adding immediately after clause (w) the following clause:

(wa) “Regulatory and Appeals Board” means the Nova Scotia Regulatory and Appeals Board;

and

(b) striking out clause (xa).

43 Chapter 260 is further amended by striking out “Review Board” wherever it appears and substituting in each case “Regulatory and Appeals Board”.

PART XXII

MARINE RENEWABLE-ENERGY ACT

44 Chapter 32 of the Acts of 2015, the *Marine Renewable-energy Act*, is amended by striking out “Utility and Review” wherever it appears and substituting in each case “Energy”.

PART XXIII

MARITIME LINK ACT

45 Section 2 of Chapter 9 of the Acts of 2012, the *Maritime Link Act*, as amended by Chapter 40 of the Acts of 2013, is further amended by

(a) adding immediately after clause (aa) the following clause:

(ab) “Energy Board” means the Nova Scotia Energy Board established under the *Energy and Regulatory Boards Act*;

(b) striking out the semicolon at the end of clause (d) and substituting a period; and

(c) striking out clause (e).

46 Chapter 9 is further amended by striking out “Review Board” wherever it appears and substituting in each case “Energy Board”.

47 Section 4A of Chapter 9, as enacted by Chapter 40 of the Acts of 2013, is amended by striking out “*Utility and Review Board Act*” and substituting “*Energy and Regulatory Boards Act*”.

PART XXIV

MINERAL RESOURCES ACT

48 Subsection 9(1) of Chapter 3 of the Acts of 2016, the *Mineral Resources Act*, is amended by striking out “Utility and Review” and substituting “Regulatory and Appeals”.

PART XXV

MOTOR CARRIER ACT

49 Clause 2(a) of Chapter 292 of the Revised Statutes, 1989, the *Motor Carrier Act*, as enacted by Chapter 23 of the Acts of 1992, is amended by striking out “Utility and Review” and substituting “Regulatory and Appeals”.

PART XXVI

MUNICIPAL GOVERNMENT ACT

50 Clause 3(f) of Chapter 18 of the Acts of 1998, the *Municipal Government Act*, is amended by striking out “Utility and Review” and substituting “Regulatory and Appeals”.

51 Subsection 250A(6) of Chapter 18, as enacted by Chapter 25 of the Acts of 2008, is amended by striking out “28(1) of the *Utility and Review Board Act*” and substituting “34(1) of the *Energy and Regulatory Boards Act*”.

PART XVII

NOVA SCOTIA POWER PRIVATIZATION ACT

52 Clause 8(1)(a) of Chapter 8 of the Acts of 1992, the *Nova Scotia Power Privatization Act*, is amended by striking out “and the Company shall not construct a generating plant that utilizes nuclear energy to produce electricity”.

PART XXVIII

PETROLEUM RESOURCES REMOVAL PERMIT ACT

53 Clause 3(1)(a) of Chapter 7 of the Acts of 1999, the *Petroleum Resources Removal Permit Act*, is amended by striking out “Utility and Review” and substituting “Energy”.

54 Subsection 15(1) of Chapter 7 is amended by striking out “*Utility and Review Board Act*” and substituting “*Energy and Regulatory Boards Act*”.

PART XXIX

PIPELINE ACT

55 Clause 3(1)(a) of Chapter 345 of the Revised Statutes, 1989, the *Pipeline Act*, is repealed and the following clause substituted:

(a) “Board” means the Nova Scotia Energy Board established pursuant to the *Energy and Regulatory Boards Act*;

PART XXX

PUBLIC INTEREST DISCLOSURE OF WRONGDOING ACT

56 The Schedule to Chapter 42 of the Acts of 2010, the *Public Interest Disclosure of Wrongdoing Act*, is amended by

- (a) striking out “Nova Scotia Utility and Review Board”; and
- (b) adding the following in alphabetical order:
 - Nova Scotia Energy Board
 - Nova Scotia Regulatory and Appeals Board

PART XXXI

PUBLIC UTILITIES ACT

57 Section 2 of Chapter 380 of the Revised Statutes, 1989, the *Public Utilities Act*, as amended by Chapters 11 and 37 of the Acts of 1992, Chapter 4 of the Acts of 1997 and Chapter 27 of the Acts of 2022, is further amended by

(a) striking out clause (a) and substituting the following clauses:

(a) “affiliate” has the same meaning as in the *Companies Act*;

(b) “Board” means the Energy Board or the Regulatory Board, as the context requires;

(ba) “Energy Board” means the Nova Scotia Energy Board;

(b) relettering clause (ca) as clause (cc);**(c) adding immediately before clause (cc), as relettered, the following clauses:**

(ca) “IESO” means the Nova Scotia Independent Energy System Operator established under the *More Access to Energy Act*;

(cb) “integrated electricity system” means the IESO-controlled grid and the structures, equipment and other things that connect the IESO-controlled grid with transmission and distribution systems within the Province and transmission systems outside of the Province;

(d) striking out “, water” in subclause (e)(iv);**(e) adding immediately after subclause (e)(iv) the following clause:**

(v) any plant or equipment for the production, transmission, delivery or furnishing of water either directly or indirectly to or for the public,

(f) adding immediately after clause (e) the following clause:

(ea) “Regulatory Board” means the Nova Scotia Regulatory and Appeals Board;

(g) striking out the semicolon at the end of subclause (f)(viii) and substituting a comma;**(h) adding immediately after subclause (f)(viii) the following subclause:**

(ix) the provision of such other services as prescribed by regulation by the Governor in Council in accordance with the purpose of the *More Access to Energy Act*;

and

(i) adding immediately after clause (h) the following clause:

(i) “Utility and Review Board” means the former Nova Scotia Utility and Review Board;

58 Subsection 16(1) of Chapter 380, as amended by Chapter 11 of the Acts of 1992, is further amended by striking out “Nova Scotia Utility and Review Board” and substituting “Energy Board or Regulatory Board, as applicable.”.

59 Section 21 of Chapter 380 is amended by

(a) adding “(1)” immediately after the Section number; and

(b) adding the following subsection:

(2) Whenever the Minister considers a change in law, regulation, policy, policy objective or government action relating directly or indirectly to the property or operations of a public utility, or relating to the structure or operation of the integrated electricity system as a whole, the proposed change may be submitted to the Board by the Minister and the Board shall make such recommendations to the Minister as will, in its judgement, protect the interests of the public and such public utility and transmit the same to the Minister.

60 Chapter 380 is further amended by adding immediately after Section 21 the following Sections:

21A (1) The Minister may approve and issue policy guidelines concerning objectives prescribed by the regulations.

(2) The Energy Board and the Regulatory Board shall implement policy guidelines issued under subsection (1).

(3) A policy guideline issued under this Section must be published in the Royal Gazette.

21B (1) The Governor in Council may prescribe a project in relation to which a public utility is authorized to enter into an ownership arrangement with a third party, if

(a) the project is required to meet an environmental goal or target established pursuant to an Act or a regulation;

(b) the project is intended to be operated by the public utility;

(c) the project is not a project that the IESO is conducting a procurement for; and

(d) the ownership arrangement provides a benefit to ratepayers.

(2) An ownership arrangement is deemed to be a public utility with all the powers and authorities of the public utility project partner and is subject to oversight by the Energy Board.

(3) The Energy Board shall establish a separate rate base for each ownership arrangement.

(4) The revenue requirement for an ownership arrangement shall be determined by the Energy Board and recovered through an annual assessment against the public utility participant in the ownership arrangement, the amount of which may be determined by the Board.

(5) A public utility is entitled to recover annually from its customers any assessment approved by the Energy Board under subsection (4).

(6) The term “ownership arrangement”, as used in this Section, is not intended to require any particular corporate structure.

61 Subsection 30(5) of Chapter 380, as enacted by Chapter 52 of the Acts of 2022, is amended by adding “Energy” immediately after “The”.

62 (1) Subsection 34A(1) of Chapter 380, as enacted by Chapter 41 of the Acts of 2012, is amended by adding “Energy” immediately after “The”.

(2) Subsection 34A(2) of Chapter 380, as enacted by Chapter 41 of the Acts of 2012, is amended by adding “Energy” immediately after “The”.

(3) Subsection 34A(3) of Chapter 380, as enacted by Chapter 41 of the Acts of 2012, is amended by adding “Energy” immediately before “Board”.

(4) Section 34A of Chapter 380, as enacted by Chapter 41 of the Acts of 2012, is amended by adding immediately after subsection (3) the following subsections:

(4) The Governor in Council may make regulations specifying when the Energy Board must order an independent savings review of Nova Scotia Power Incorporated and setting out additional items to be included in the scope of the review.

(5) An independent savings review must be conducted by a qualified third party with no current economic or other relationship with Nova Scotia Power Incorporated or any Nova Scotia Power Incorporated affiliate.

(6) The exercise by the Governor in Council of the authority contained in subsection (4) is a regulation within the meaning of the *Regulations Act*.

63 Section 35 of Chapter 380, as amended by Chapter 35 of the Acts of 2001 and Chapter 24 of the Acts of 2010, is further amended by

(a) adding “(1)” immediately after the Section number; and

(b) adding the following subsection:

(2) When determining whether to grant approvals under subsection (1), the Energy Board shall consider the extent to which such approval accords with the purpose of the *More Access to Energy Act* and policy guidelines issued under this Act.

64 Section 35A of Chapter 380, as enacted by Chapter 8 of the Acts of 1992 and amended by Chapter 24 of the Acts of 2010, is further amended by adding immediately after subsection (3) the following subsection:

(4) When determining whether to grant approvals under subsection (1), the Energy Board shall consider the extent to which such approvals accord with the purpose of the *More Access to Energy Act* and policy directives issued under this Act.

65 Subsection 35AA(1) of Chapter 380, as enacted by Chapter 38 of the Acts of 2019, is amended by adding “and Section 35AB” immediately after “Section”.

66 Chapter 380 is further amended by adding immediately after Section 35AA the following Section:

35AB (1) The Governor in Council may make regulations respecting public procurements by large-scale public utilities.

(2) The Board has oversight of all procurement practices by large-scale public utilities.

67 Section 35B of Chapter 380, as enacted by Chapter 31 of the Acts of 2015, is amended by adding “Energy” immediately before “Board”.

68 (1) Subsection 35C(1) of Chapter 380, as enacted by Chapter 31 of the Acts of 2015, is amended by

(a) adding “Utility and Review” immediately before “Board” the first time it appears; and

(b) striking out “Board” the second time it appears.

(2) Subsection 35C(2) of Chapter 380, as enacted by Chapter 31 of the Acts of 2015, is amended by adding “Energy” immediately before “Board” the first time it appears.

69 Section 35D of Chapter 380, as enacted by Chapter 31 of the Acts of 2015, is amended by adding “Energy” immediately before “Board”.

70 (1) Subsection 35E(1) of Chapter 380, as enacted by Chapter 31 of the Acts of 2015, is amended by

(a) adding “Utility and Review” immediately before “Board” the first time it appears; and

(b) striking out “Board” the second time it appears.

(2) Subsection 35E(2) of Chapter 380, as enacted by Chapter 31 of the Acts of 2015, is amended by adding “Energy” immediately before “Board” both times it appears.

71 Section 35F of Chapter 380, as enacted by Chapter 31 of the Acts of 2015, is amended by

(a) striking out “Board” the first time it appears; and

(b) adding “Utility and Review” immediately before “Board” the second time it appears.

72 Chapter 380 is further amended by adding immediately after Section 35F the following Section:

35G (1) The Energy Board and the Regulatory Board may approve, deny or modify an application for a financing order.

(2) The Governor in Council may make regulations respecting all aspects of financing orders, including defining financing orders and when they may be used.

(3) The exercise by the Governor in Council of the authority contained in subsection (2) is a regulation within the meaning of the *Regulations Act*.

73 Sections 36 and 37 of Chapter 380 are repealed.

74 Section 46(1) of Chapter 380 is amended by

(a) adding “(1)” immediately after the Section number; and

(b) adding the following subsections:

(2) The Board may order a public utility to pay an administrative penalty if it fails to comply with this Act or a directive or order of the Board or has been found to have acted imprudently.

(3) Section 52E applies to subsection (2) with necessary changes.

75 (1) Subsection 48(1) of Chapter 380 is amended by adding “Energy” immediately before “Board” the first time it appears.

(2) Subsections 48(2) and (3) are repealed.

76 (1) Subsection 52A(2) of Chapter 380, as enacted by Chapter 27 of the Acts of 2022, is amended by adding “Energy” immediately after “The”.

(2) Subsection 52A(3) of Chapter 380, as enacted by Chapter 27 of the Acts of 2022, is amended by adding immediately after clause (h) the following clause:

(ha) electrical inspections timelines;

77 (1) Subsection 52B(1) of Chapter 380, as enacted by Chapter 27 of the Acts of 2022, is amended by adding “Energy” immediately before “Board”.

(2) Subsection 52B(2) of Chapter 380, as enacted by Chapter 27 of the Acts of 2022, is amended by

(a) adding “Energy” immediately before “Board” in clause (a); and

(b) adding “Energy” immediately before “Board” the first time it appears in clause (b).

(3) Subsection 52B(3) of Chapter 380, as enacted by Chapter 27 of the Acts of 2022 and amended by Chapter 52 of the Acts of 2022, is further amended by adding “Energy” immediately after “The”.

(4) Clause 52B(4)(d) of Chapter 380, as enacted by Chapter 27 of the Acts of 2022, is amended by adding “Energy” immediately before “Board”.

78 Section 52C of Chapter 380, as enacted by Chapter 31 of the Acts of 2015, is amended by adding “Energy” immediately before “Board” the first time it appears.

79 (1) Subsection 52D(1) of Chapter 380, as enacted by Chapter 31 of the Acts of 2015 and amended by Chapter 27 of the Acts of 2022, is further amended by adding “Energy” immediately after “The”.

(2) Subsection 52D(2) of Chapter 380, as enacted by Chapter 31 of the Acts of 2015 and amended by Chapter 27 of the Acts of 2022, is further amended by adding “Energy” immediately before “Board”.

(3) Subsection 52D(3) of Chapter 380, as enacted by Chapter 31 of the Acts of 2015, is amended by adding “Energy” immediately before “Board”.

(4) Subsection 52D(4) of Chapter 380, as enacted by Chapter 31 of the Acts of 2015, is amended by adding “Energy” immediately before “Board” the first time it appears.

80 (1) Subsection 52E(1) of Chapter 380, as enacted by Chapter 8 of the Acts of 2023, is amended by adding “Energy” immediately before “Board”.

(2) Subsection 52E(4) of Chapter 380, as enacted by Chapter 8 of the Acts of 2023, is amended by adding “Energy” immediately before “Board”.

(3) Subsection 52E(5) of Chapter 380 is repealed and the following subsection substituted:

(5) Nova Scotia Power Incorporated may not recover any penalty imposed on it under this Section through its rates and may not include a penalty when determining its rate of return under this Act or the *More Access to Energy Act*.

81 Clause 52F(1)(f) of Chapter 380, as enacted by Chapter 8 of the Acts of 2023, is amended by adding “Energy” immediately before “Board”.

82 Section 55A of Chapter 380, as enacted by Chapter 8 of the Acts of 1992, is amended by adding “Energy” immediately before “Board” wherever it appears.

83 Section 64 of Chapter 380 is amended by

(a) adding “Energy” immediately before “Board” wherever it appears; and

(b) adding immediately after subsection (2) the following subsection:

(3) The Energy Board may approve an application for a rate, toll or charge that is based on a method or technique the Energy Board considers appropriate, including an alternative form of regulation.

84 (1) Subsection 64A(2A) of Chapter 380 is repealed and the following subsection substituted:

(2A) Subsection (2) does not apply where the Energy Board determines that exceptional circumstances exist that have caused or will cause substantial financial harm to the ratepayers of the utility or to the utility.

(2) Subsection 64A(2B) of Chapter 380, as enacted by Chapter 41 of the Acts of 2012, is amended by adding “Energy” immediately before “Board”.

(3) Subsection 64A(2C) of Chapter 380 is repealed.

(4) Subsection 64A(3) of Chapter 380, as enacted by Chapter 52 of the Acts of 2022, is amended by

(a) striking out “Board” the first time it appears; and

(b) adding “Energy” immediately before “Board” the second time it appears.

(5) Subsections 64A(4) to (6) of Chapter 380 are repealed and the following subsections substituted:

(4) The Energy Board may not make a determination pursuant to subsection (2A) until it has held a hearing to determine whether exceptional circumstances exist as set out in that subsection and it has determined that exceptional circumstances exist.

(5) Where the Energy Board has determined that exceptional circumstances exist as set out in subsection (2A), it shall hold a separate hearing on the general rates.

(6) For greater certainty,

(a) a determination of the Energy Board pursuant to subsection (2A) may be appealed to the Nova Scotia Court of Appeal pursuant to Section 30 of the *Energy and Regulatory Boards Act*; and

(b) where the Energy Board holds a hearing pursuant to subsection (4), the Board shall appoint a consumer advocate pursuant to Section 91.

85 Section 64AA of Chapter 380, as enacted by Chapter 52 of the Acts of 2022, is amended by striking out “Board”.

86 Section 64AB of Chapter 380, as enacted by Chapter 52 of the Acts of 2022, is amended by adding “Energy” immediately before “Board” wherever it appears.

87 (1) Subsection 64B(2) of Chapter 380, as enacted by Chapter 41 of the Acts of 2012, is repealed and the following subsection substituted:

(2) Nova Scotia Power Incorporated shall submit to the Energy Board, with each application for a general rate increase made after January 1, 2013, a

report identifying who the executive employees of Nova Scotia Power Incorporated are, the position held by each executive employee and the remuneration to which each executive employee is entitled.

(2) Section 64B of Chapter 380, as enacted by Chapter 41 of the Acts of 2012, is amended by adding “Energy” immediately before “Board” wherever it appears.

88 Section 64C of Chapter 380, as enacted by Chapter 52 of the Acts of 2022, is amended by adding “Energy” immediately before “Board” the first time it appears.

89 Sections 79A to 79G of Chapter 380, as enacted by Chapter 5 of the Acts of 2014 and amended by Chapters 27 and 53 of the Acts of 2022, are further amended by adding “Energy” immediately before “Board” wherever it appears.

90 Section 79H of Chapter 380, as enacted by Chapter 53 of the Acts of 2022, is amended by adding “Energy” immediately before “Board” wherever it appears.

91 Sections 79I to 79V of Chapter 380, as enacted by Chapter 5 of the Acts of 2014 and amended by Chapter 31 of the Acts of 2015 and Chapter 53 of the Acts of 2022, are further amended by adding “Energy” immediately before “Board” wherever it appears.

92 Chapter 380 is further amended by adding immediately after Section 79V the following Section:

79W (1) The franchise holder shall co-operate with the IESO in the IESO’s pursuit of its duties under the *More Access to Energy Act*, including but not limited to the IESO’s duty to conduct integrated resource planning exercises.

(2) The franchise holder shall co-operate with the IESO respecting the integrated resource planning process to

(a) develop avoided cost calculations for demand-side management resources; and

(b) identify the maximum amount of cost-effective demand-side management reasonably available.

93 Subsection 83(1) of Chapter 380 is amended by striking out “five persons, firms or corporations” and substituting “person, firm or corporation”.

94 (1) Subsection 91(1) of Chapter 380, as enacted by Chapter 25 of the Acts of 2005, is amended by striking out “the” immediately before “Board” the first time it appears and substituting “a”.

(2) Subsection 91(5) of Chapter 380, as enacted by Chapter 25 of the Acts of 2005, is amended by adding “, and may establish a process for the consumer advocate to obtain input from residential class representatives when the Board deems it appropriate” immediately after “subsection (1)”.

95 (1) Subsection 92(2) of Chapter 380, as enacted by Chapter 31 of the Acts of 2008, is amended by striking out “the” immediately before “Board” the first time it appears and substituting “a”.

(2) Subsection 92(6) of Chapter 380, as enacted by Chapter 31 of the Acts of 2008, is amended by adding “, and may establish a process for the small business advocate to obtain input from small business class representatives when the Board deems it appropriate” immediately after “subsection (2)”.

96 Chapter 380 is further amended by adding immediately after Section 93 the following Section:

94 (1) A consumer advocate appointed pursuant to subsection 91(1) and a small business advocate appointed pursuant to subsection 92(2) shall each file an annual report with the Board no later than March 31st of each year covering the activities of the advocate during the preceding calendar year.

(2) An annual report filed with the Board pursuant to subsection (1) must itemize each matter or proceeding in which the advocate participated with details respecting each matter or proceeding including

(a) the activities carried out by the advocate and the hours spent by the advocate on each activity;

(b) the name and qualifications of, role of and hours spent on an assigned task by any expert or consultant retained by the advocate;

(c) the manner in which an expert or consultant retained by the advocate was compensated, including fixed fee, hourly rate or other compensation structure;

(d) a detailed accounting of the fees and costs submitted for recovery by the advocate, including fees and costs of any expert or consultant; and

(e) such other information as the Board may request or which the Governor in Council may prescribe by regulation.

(3) Upon receipt of an annual report filed pursuant to subsection (1), the Board may set a process to obtain comments on the report.

(4) The Board shall accept the report as filed or undertake such process on the report as the Board determines appropriate and in the public interest.

PART XXXII

RAILWAYS ACT

97 Clause 3(a) of Chapter 11 of the Acts of 1993, the *Railways Act*, is amended by striking out “Utility and Review” and substituting “Regulatory and Appeals”.

PART XXXIII

REGULATIONS ACT

98 The Schedule to Chapter 393 of the Revised Statutes, 1989, the *Regulations Act*, is amended by

- (a) striking out “Board of Commissioners of Public Utilities”; and
- (b) adding the following in alphabetical order:
 - Nova Scotia Energy Board
 - Nova Scotia Regulatory and Appeals Board

PART XXXIV

REVENUE ACT

99 Chapter 17 of the Acts of 1995-96, the *Revenue Act*, is amended by striking out “Utility and Review” wherever it appears and substituting in each case “Regulatory and Appeals”.

PART XXXV

THE RIVERPORT ELECTRIC LIGHT ACT
FOR POLLING DISTRICT NO. 2,
IN THE COUNTY OF LUNENBURG

100 Chapter 149 of the Acts of 1920, *The Riverport Electric Light Act for Polling District No. 2, in the County of Lunenburg*, is amended by striking out “Utility and Review” wherever it appears and substituting in each case “Energy”.

PART XXXVI

SUBSURFACE ENERGY STORAGE ACT

101 Clause 2(a) of Chapter 37 of the Acts of 2001, the *Subsurface Energy Storage Act*, is amended by striking out “Utility and Review” and substituting “Energy”.

PART XXXVII

TECHNICAL SAFETY ACT

102 Chapter 10 of the Acts of 2008, the *Technical Safety Act*, is amended by

- (a) striking out “Nova Scotia Utility and Review Board” wherever it appears and substituting in each case “Nova Scotia Regulatory and Appeals Board”; and
- (b) striking out “*Utility and Review Board Act*” wherever it appears and substituting in each case “*Energy and Regulatory Boards Act*”.

PART XXXVIII

THEATRES AND AMUSEMENTS ACT

103 Clause 2(ja) of Chapter 466 of the Revised Statutes, 1989, the *Theatres and Amusements Act*, is repealed.

104 Subsection 5(6C) of Chapter 466, as enacted by Chapter 8 of the Acts of 2012, is amended by striking out “Utility and Review” and substituting “Regulatory and Appeals”.

PART XXXIX

EFFECTIVE DATE

105 This Act, except Sections 2 and 3, clauses 57(d) and (e) and subsection 76(2), has effect on and after such day as the Governor in Council may order and declare by proclamation.

SCHEDULE A

**An Act to Establish the Nova Scotia Energy Board,
the Nova Scotia Regulatory and Appeals Board
and the Energy and Regulatory Boards Tribunal**

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Energy and Regulatory Boards Act*.

2 In this Act, unless the context otherwise requires,

“alternative form of regulation” means a method of establishing just and reasonable rates, tolls, charges and tariffs by performance-based regulation, including earnings sharing, price caps, price indexing formulas, ranges of authorized rates of return and the increase, reduction or suspension of regulatory requirements, without regard to methods based strictly upon cost of service, rate base and rate of return;

“Board” means the Energy Board or the Regulatory and Appeals Board, as the context requires;

“Chair” means the Chair of the Energy Board and the Regulatory and Appeals Board;

“Clerk” means a person appointed by the Chair to serve as a clerk of the Board;

“Court of Appeal” means the Nova Scotia Court of Appeal;

“Energy Board” means the Nova Scotia Energy Board;

“energy resources” means resources capable of providing transmission service or capacity or energy, including wind, solar, hydrogen, battery technology or other energy storage resources, distributed energy, demand side management resources, demand response and control resources, combined heat and power resources and hybrid peaking resources, and combinations of such resources;

“former Act” means the former *Utility and Review Board Act*;

“member” means a member of either Board;

“municipality” means a regional municipality, a town or a municipality of a county or district;

“predecessor board” means the former Nova Scotia Utility and Review Board;

“public utility” means a public utility within the meaning of the *Public Utilities Act*;

“Regulatory and Appeals Board” means the Nova Scotia Regulatory and Appeals Board;

“Supreme Court” means the Supreme Court of Nova Scotia;

“Tribunal” means the Energy and Regulatory Boards Tribunal.

NOVA SCOTIA ENERGY AND REGULATORY BOARDS TRIBUNAL

- 3 The Nova Scotia Utility and Review Board is continued as the Energy and Regulatory Boards Tribunal.

NOVA SCOTIA ENERGY BOARD

- 4 The Nova Scotia Energy Board is established as a division of the Tribunal.
- 5 (1) The Energy Board has those functions, powers and duties that are conferred or imposed upon it
- (a) by this Act;
 - (b) by the *More Access to Energy Act*;
 - (c) respecting the production, transmission, delivery or furnishing of electrical energy for the purpose of heat, light and power or steam heat, geothermal heat, geothermal resources and electricity efficiency and conservation, by the *Public Utilities Act*;
 - (d) by the *Gas Distribution Act*, the *Electricity Act*, the *Petroleum Products Pricing Act* or any other enactment; and
 - (e) as the Governor in Council prescribes by the regulations.

(2) The Governor in Council may assign to the Energy Board the powers, functions and duties of any board, commission or agency and while the assignment is in effect, that board, commission or agency is discontinued and Section 43 applies with necessary changes respecting that board, commission or agency.

6 (1) In approving or fixing just and reasonable rates, tolls, charges or tariffs pursuant to this Act or any other enactment, the Energy Board may adopt any method or technique that it considers appropriate, including an alternative form of regulation.

(2) In approving or fixing rates, tolls, charges, tariffs, capital applications and all other matters over which the Energy Board has authority, the Board shall give appropriate consideration to the extent to which such rates, tolls, charges, tariffs, capital applications or other matters

- (a) support competition and innovation in the provision of energy resources in the Province;
- (b) support the development of a competitive electricity market;
- (c) ensure the provision of safe, secure, reliable and economical energy supply in the Province;
- (d) support sustainable development and sustainable prosperity; and
- (e) support such other factors as prescribed by the regulations,

with the goal of approving rates, tolls, charges, tariffs, capital applications or other matters that are consistent with the purpose of this Act, the *More Access to Energy Act* and the regulations.

(3) Subject to subsection (4), the Energy Board shall regulate

- (a) the Independent Energy Systems Operator, transmitters and all matters relating to public utilities that perform the functions of production, transmission, delivery or furnishing of electrical energy to or for the public for the purpose of heat, light and power, geothermal resources, geothermal energy, geothermal heat or steam heat;
- (b) the franchise holder granted a franchise pursuant to Section 79C of the *Public Utilities Act*;
- (c) the Halifax Water district energy project;
- (d) any holder of the franchise to construct and operate a gas delivery system in the Province pursuant to the *Gas Distribution Act*; and
- (e) any other entity or service prescribed by the regulations.

- (4) The Governor in Council may make regulations
- (a) prescribing factors for the Energy Board to consider when approving rates, tolls, charges or tariffs, capital applications and all other matters over which the Energy Board has authority respecting the production, transmission, delivery or furnishing of electrical energy for the purpose of heat, light and power or steam heat, including combined heat and power;
 - (b) excluding any entity or service from the jurisdiction of the Energy Board.

(5) The exercise by the Governor in Council of the authority contained in subsection (4) is a regulation within the meaning of the *Regulations Act*.

(6) The Energy Board shall endeavour to issue fair decisions in relation to all matters in a manner that is efficient, effective and as timely as possible.

(7) The Energy Board shall make public all approved rates, tolls, charges, tariffs and capital applications on its website and update these documents as required.

7 (1) The Energy Board consists of such number, not fewer than five and not more than seven, of full-time members appointed by the Governor in Council and such number, not more than three, of part-time members appointed by the Governor in Council.

(2) Each member of the Energy Board shall be sworn to the faithful performance of that member's duties before entering office.

(3) Each full-time member holds office for a term, on good behaviour, not exceeding 10 years and may be reappointed for subsequent terms not exceeding 10 years.

(4) Each part-time member holds office for such term as the Governor in Council determines.

(5) Notwithstanding subsections (1) to (4), a member of the predecessor board, who is reassigned to the Energy Board pursuant to this Act, is a member of the Energy Board and holds office on good behaviour as a member thereof on the same full-time or part-time basis, as the case may be, for the same term and upon the same conditions as for the predecessor board and of which the member is, immediately before the coming into force of this Section, a member.

(6) Where a member of the Energy Board resigns from, retires from or reaches the end of the member's term with the Energy Board, the member, during such period of time as the Governor in Council determines, respecting any application, appeal, proceeding, matter or thing heard before the member or commenced by the member as a member, has and shall exercise the jurisdiction of a member, including the power to complete any unfinished matter and give a decision therein, as if the member had not so resigned, retired or finished the member's term.

(7) A determination by the Governor in Council pursuant to subsection (6) may be made before or after such resignation, retirement or end of term and may be retroactive in effect.

(8) Notwithstanding the limits set out in subsection (1), where the Chair considers it appropriate, the Chair may appoint a member of the Regulatory and Appeals Board to sit as a member of the Energy Board on a matter-by-matter basis.

(9) Notwithstanding subsections (1) to (7), the Chair may reassign a member of the predecessor board to the Energy Board on a permanent basis and such reassigned member holds office for the same term and upon the same conditions under which the member was appointed.

REGULATORY AND APPEALS BOARD

8 The Nova Scotia Regulatory and Appeals Board is established as a division of the Tribunal.

9 (1) The Regulatory and Appeals Board has those functions, powers and duties that are conferred or imposed on it by

- (a) this Act;
- (b) the *Assessment Act*;
- (c) the *Expropriation Act*;

- (d) the *Halifax Regional Municipality Charter*;
- (e) the *Heritage Property Act*;
- (f) the *Insurance Act*;
- (g) the *Motor Carrier Act*;
- (h) the *Municipal Government Act*;
- (i) the *Public Utilities Act*, other than those matters assigned under clause 5(1)(c);
- (j) the *Education (CSAP) Act*;
- (k) the *Revenue Act*;
- (l) any other enactment; and
- (m) the Governor in Council,

and responsibility for those matters that were assigned to the predecessor board in addition to those listed in clauses (a) to (m) and not assigned to the Energy Board under Section 5.

(2) The Governor in Council may assign to the Regulatory and Appeals Board the powers, functions and duties of any board, commission or agency and while the assignment is in effect, that board, commission or agency is discontinued and Section 43 applies with necessary changes respecting that board, commission or agency.

(3) Subject to subsection (4), the Regulatory and Appeals Board has specific jurisdiction over

- (a) the public utilities defined in subclauses 2(e)(i), (ii), (iii) and (v) of the *Public Utilities Act*;
- (b) the services defined in subclauses 2(f)(i), (ii) and (v) of the *Public Utilities Act*;
- (c) any other entity, service or matter currently under the jurisdiction of the predecessor board but not assigned specifically to the Energy Board; and
- (d) any entity, service or matter prescribed by the regulations.

(4) The Governor in Council may make regulations excluding any entity or service from the jurisdiction of the Regulatory and Appeals Board.

(5) The exercise by the Governor in Council of the authority contained in subsection (4) is a regulation within the meaning of the *Regulations Act*.

(6) The Regulatory and Appeals Board shall endeavour to issue fair decisions in relation to all matters in a manner that is efficient, effective and as timely as possible.

10 (1) The Regulatory and Appeals Board consists of such number, not fewer than five and not more than seven, of full-time members appointed by the Governor in Council and such number, not more than three, of part-time members appointed by the Governor in Council.

(2) Each member of the Regulatory and Appeals Board shall be sworn or affirmed to the faithful performance of that member's duties before entering office.

(3) Each full-time member shall be appointed, for good behaviour, for a term not exceeding 10 years and may be reappointed for subsequent terms not exceeding 10 years.

(4) Each part-time member holds office for such term as the Governor in Council determines.

(5) Notwithstanding subsections (1) to (4), a member of the Regulatory and Appeals Board, who, immediately before the coming into force of this Section, is a member of the predecessor board, is a member of the Regulatory and Appeals Board and holds office as a member thereof on the same full-time or part-time basis as the case may be, for the same term and upon the same conditions, on good behaviour, as for the predecessor board to which the member was first appointed and of which the member is, immediately before the coming into force of this Section, a member.

(6) Where a member of the Regulatory and Appeals Board resigns from, retires from or reaches the end of the member's term with the Regulatory and Appeals Board, the member, during such period of time as the Governor in Council determines, respecting any application, appeal, proceeding, matter or thing heard before the member or commenced by the member as a member, has and shall exercise the jurisdiction of a member, including

the power to complete any unfinished matter and give a decision therein, as if the member had not so resigned, retired or finished the member's term.

(7) A determination by the Governor in Council pursuant to subsection (6) may be made before or after such resignation, retirement or end of term and may be retroactive in effect.

(8) Notwithstanding the limits set out in subsection (1), where the Chair considers it appropriate, the Chair may appoint a member of the Energy Board to sit as a member of the Regulatory and Appeals Board on a matter-by-matter basis.

(9) Notwithstanding subsections (1) to (7), the Chair may reassign a member of the predecessor board to the Regulatory and Appeals Board on a permanent basis and the reassigned member holds office for the same term and upon the same conditions under which the member was appointed.

GENERAL

11 (1) The Governor in Council shall designate

- (a) one of the full-time members to be the Chair of the Energy Board and the Regulatory and Appeals Board;
- (b) one full-time member of the Energy Board to be Vice-chair of that Board; and
- (c) one full-time member of the Regulatory and Appeals Board to be Vice-chair of that Board.

(2) The Chair has the general supervision and direction over the conduct of the affairs of the Boards and the Tribunal.

(3) In case of the absence of the Chair or the Chair's inability to act, the Chair shall designate the Vice-chair of either Board to perform the duties and exercise the powers of the Chair.

(4) Where the Chair is unable to designate a Vice-chair under subsection (3), the Vice-chair of the Energy Board shall designate another member to act.

(5) Where the Vice-chair of the Energy Board is unable to designate a member under subsection (4), the Vice-chair of the Regulatory and Appeals Board shall designate another member to act.

(6) The Chair may delegate some or all of the Chair's duties to another member of the Board as necessary and for any term necessary.

12 (1) The Chair of the predecessor board continues to be the Chair of the Energy Board and the Regulatory and Appeals Board on the coming into force of this Act.

(2) The Vice-chair of the predecessor board continues as the Vice-chair of the Energy Board on the coming into force of this Act.

13 Notwithstanding subsections 7(5) and 10(5), a member shall be paid such remuneration as the Governor in Council determines and, subject to the regulations, shall be reimbursed for reasonable travelling and other expenses necessarily incurred by the member in connection with the work of the Board.

14 (1) No member who acts in a matter affecting a public utility shall be directly or indirectly employed by or interested in a public utility or interested in a share, stock, bond, mortgage, security or contract of the public utility and, where a member voluntarily becomes so interested, the member's office becomes vacant or, where the member becomes so interested otherwise than voluntarily, the member shall, within a reasonable time, dispose of the interest.

(2) Where a member fails to dispose of an interest as required by subsection (1), the Governor in Council may revoke the appointment of the member.

(3) No member is disqualified from acting in a matter affecting a public utility by reason only of being a purchaser of power, water or electric current or service from the public utility.

(4) No member is disqualified from acting in a matter affecting a municipality by reason only of being a resident or ratepayer of the municipality.

15 (1) The Chair may appoint such officers and employees as are required for the administration of this Act and for administration and support to the Tribunal in accordance with the *Civil Service Act*.

(2) In making appointments under subsection (1), the Chair shall consider the staffing requirements of the Tribunal to support both Boards with the intent of ensuring the efficient use of such officers and employees to carry out the administration of this Act and the affairs of the Tribunal.

(3) The Chair may engage the services of professional persons, technical persons and experts to advise the Board upon such terms and conditions as the Chair deems fit.

(4) A Board may avail itself of the services of an officer or other employee of a board, commission or department of the Province, subject to the approval of the minister or other person in charge of the administration of the service in which the officer or employee is employed.

(5) For greater certainty, persons who, immediately before the coming into force of this Section, are officers and employees of the predecessor board are officers and employees, respectively, of the Tribunal.

16 (1) For all purposes of the *Public Service Superannuation Act*, each full-time member and each full-time employee of the Tribunal is deemed to be a person employed in the public service of the Province and full-time service in employment of the Tribunal is deemed to be public service.

(2) The Tribunal shall deduct from the salary of each full-time member and each full-time employee of the Tribunal such amount as is directed by the Governor in Council to be deducted from the salary of employees in the public service of the Province, and shall pay the same to the Minister of Finance and Treasury Board, and such amounts when so received must be paid into and form part of the Superannuation Fund pursuant to the *Public Service Superannuation Act*.

(3) Where, by the *Public Service Superannuation Act*, a payment is directed to be made into the Superannuation Fund by the Government or by the Minister of Finance and Treasury Board, or where by that Act a superannuation allowance or other sum is directed to be paid out of the General Revenue Fund of the Province, then, in respect of a full-time member of a Board or of a full-time employee of the Tribunal, the payment, superannuation allowance or other sum must be defrayed by the Tribunal and forms part of the annual expenses of the Tribunal.

17 The expenses of the Tribunal must be paid out of the levies made by the Tribunal through the Boards, and out of money appropriated by the Legislature therefor and, until an appropriation is granted, out of the General Revenue Fund of the Province on the direction of the Minister of Finance and Treasury Board.

18 The fiscal year of the Tribunal is the same as the fiscal year of the Province.

19 (1) A Board may establish reasonable fees or other charges for the recovery of expenses to be paid by parties in proceedings before that Board.

(2) The fees and charges authorized under this Section are in addition to the right to levy any fee, charge, assessment or similar payment authorized under any other enactment.

(3) A Board may require parties to provide a deposit or other security for the payment of fees and charges.

(4) A Board may charge interest on fees or charges owing by a party at a rate not to exceed the interest rate determined by subsection 15(2) of the *Finance Act*.

(5) A Board may bring legal proceedings in any court of competent jurisdiction to recover amounts owing under this Section.

(6) A Board may, on such terms and conditions deemed appropriate, waive any fees, charges or interest authorized under this Section.

20 A Board may make rules respecting practice and procedure in relation to matters coming before it.

21 (1) The Chair has the responsibility for the administration of the Boards and the members and, without limiting the generality of the foregoing, shall assign the members to their various sittings and may change an assignment at any time.

(2) The Chair may direct an officer or employee of the Tribunal to attend a sitting of either Board and may prescribe that person's duties.

(3) The Chair shall

(a) determine the number of members to attend the hearing of an application, appeal or other matter before a Board; and

(b) determine the quorum with respect to the application, appeal or other matter.

(4) The Chair, when present, shall preside at all sittings of a Board, and in the Chair's absence, the member designated by the Chair to preside shall preside.

22 (1) The members may sit separately at the same time to hear and determine matters before a Board if there is a quorum in each case.

(2) A vacancy on a Board does not impair the right of the remaining members to act.

23 (1) The Chair may authorize a member of a Board to inquire into and report to that Board upon a matter within the jurisdiction of that Board or pending before it, and when so authorized that member has, for the purpose of taking evidence or obtaining information for the report, all the powers of that Board.

(2) A Board may appoint or direct a person to make an inquiry and report to the Board upon a matter within the jurisdiction of the Board.

24 In a matter over which a Board has jurisdiction, the Board and each member has all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*.

25 (1) A member may administer oaths or affirmations, certify as to official acts and issue subpoenas to compel the attendance of witnesses and the production of books, accounts, papers, records, documents and testimony.

(2) Where a person fails to comply with an order of a Board or a subpoena or where a witness refuses to testify to a matter regarding which the witness may be interrogated before a Board or a member, a judge of the Supreme Court shall, on application of the Board or a member of that Board, compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued by the Court or a refusal to testify therein.

26 A Board may, in an investigation, cause the evidence of witnesses residing within or outside of the Province to be taken in the manner prescribed by law for like depositions and civil actions in the Supreme Court.

27 A Board may receive in evidence any statement, document, information, electronic records or matter that, in the opinion of the Board, may assist it to deal with the matter before that Board whether or not the statement, document, information or matter is given or produced under oath or would be admissible as evidence in a court of law.

28 A hearing may be adjourned by either Board on reasonable grounds on its own motion or on the request of a party to the proceedings.

29 (1) A party may be represented before a Board by counsel.

(2) In a hearing before a Board, a party may call and examine witnesses, cross-examine opposing witnesses and present arguments and submissions.

30 (1) A Board has exclusive jurisdiction in all cases and in respect of all matters in which jurisdiction is conferred on the Board.

(2) The Boards, as to all matters within their jurisdiction pursuant to this Act, may hear and determine all questions of law and of fact.

31 (1) In determining a question of fact, a Board is not bound by the finding or judgment of a court in a proceeding involved in the determination of the fact, but such finding or judgment is, in proceedings before the Board, prima facie evidence only.

(2) A Board has jurisdiction to hear and determine a question of fact notwithstanding that a proceeding involving the same question of fact is pending in a court.

(3) The finding or determination of a Board upon a question of fact within its jurisdiction is binding and conclusive.

32 (1) In any matter before a Board, it shall grant an order, either as specified in the application or notice of appeal or as the Board decides.

(2) It is not necessary that an order of a Board show upon its face that any proceedings or notice was had or given or circumstances existed necessary to give it jurisdiction to make the order.

33 (1) A final decision of a Board must be in writing and must set forth reasons for the decision.

(2) The reasons for the final decision must include

- (a) any agreed findings of facts;
- (b) the findings of fact on the evidence; and
- (c) the conclusions of law based on the findings referred to in clauses (a) and (b).

(3) The Clerk shall certify a copy of a final decision and send a copy to each party to the proceeding.

34 (1) Except in respect of a proceeding pursuant to the *Municipal Government Act* or the *Halifax Regional Municipality Charter*, costs of and incidental to a proceeding before a Board, are in the discretion of the Board and may be fixed at a sum certain or may be taxed.

(2) A Board may order by whom costs are to be taxed and may prescribe the scale under which costs are to be taxed.

(3) Where a Board so orders, witnesses summoned to give evidence before the Board are entitled to fees as determined by the Board.

(4) The Boards shall make rules, individually or jointly, respecting pre-approval of intervenor costs for non-profit intervenors, including any rules respecting recovery of those costs in certain circumstances, as prescribed by the Boards.

35 (1) An order made by a Board may be made a rule or order of the Supreme Court, and thereupon may be enforced in like manner as a rule, order, decree or judgment of that Court.

(2) To make an order of a Board a rule or order of the Supreme Court, the Clerk may make a certified copy of the order upon which must be endorsed:

Make the within a rule or order of the Supreme Court of Nova Scotia

Dated this ____ day of _____, 20 ____

Chair
Nova Scotia Energy Board/ Nova Scotia Regulatory and Appeals Board

(3) The endorsement must be signed by the Chair and sealed with the seal of the Board that made the order.

(4) The Clerk shall forward the certified copy so endorsed to a prothonotary of the Supreme Court, who shall, upon receipt thereof, enter the same as of record, and it thereupon becomes and is an order of the Court and is enforceable as a rule, order, decree or judgment of the Court.

(5) Where a decision or order of a Board has been made a rule or order of the Supreme Court, a decision or order of the Board rescinding or varying the same rescinds and is deemed to rescind or vary the rule or order, and may in like manner be made a rule or order of the Supreme Court.

36 (1) An appeal lies to the Court of Appeal from an order of a Board upon any question as to its jurisdiction or upon any question of law, upon filing with the Court a notice of appeal within 30 days after the issuance of the order.

(2) A notice of appeal must contain the names of the parties and the date of the order appealed from.

(3) A copy of the notice of appeal must be served upon the other parties within 10 days of filing the notice of appeal with the Court of Appeal.

(4) Where there is a conflict between this Section and another enactment, that enactment prevails.

37 (1) A Board may, upon its own motion with leave of the Attorney General or the Court of Appeal or upon the request of the Governor in Council, state a case in writing for the opinion of the Court upon a question that, in the opinion of the Board, is a question of law.

(2) The Court of Appeal shall hear and determine the question of law arising thereon and remit the matter to the Board making the motion with the opinion of the Court thereon.

38 (1) A document, including electronic records, purporting to be certified by a member or by the Clerk to be a true copy of a document deposited with a Board or of any portion thereof is, without proof of signature or office of the person who purported to have signed the document, prima facie evidence

(a) of the original document;

(b) that the original is so deposited and is signed, certified, attested or executed as shown on or appearing from the certified copy; and

(c) where the certificate states the time when the original was so deposited, that it was deposited at the time so stated.

(2) A copy of a regulation, order, plan or document in the custody of the Clerk or on record with a Board, purporting to be certified by a member of either Board or by the Clerk to be a true copy and purporting to be sealed with the seal of one of the Boards, is prima facie evidence of the regulation, order, plan or document without proof of the signature of the person purporting to certify it.

(3) Upon application and upon payment of the fee prescribed by a Board, the Clerk shall provide a certified copy of a regulation, rule, decision or order of the Board or of a map, plan or document deposited with the Board.

ADMINISTRATION

39 (1) The Tribunal shall, in each year, make a report to the Governor in Council on its activities during the fiscal year ending in that year, and the report must contain such particulars as the Governor in Council may prescribe by the regulations.

(2) Each report must be laid before the House of Assembly by the Attorney General or, where it is not sitting, within 15 sitting days after it next sits.

(3) The Tribunal shall publish and distribute such information in respect of its activities as in its judgement may be useful.

40 (1) The Governor in Council may make regulations

(a) prescribing the terms and conditions, including remuneration, for the Boards engaging the services of professional persons, technical persons and experts to advise the Boards;

- (b) respecting the location of hearings of the Boards;
- (c) requiring public notice of hearings of the Boards, with power to prescribe the manner in which and by whom the notice shall be given;
- (d) prescribing the necessary parties to applications, appeals or other matters or proceedings before the Boards;
- (e) permitting persons who are not parties to an application, appeal or other matter or proceeding before the Boards to participate in an application, appeal or other matter or proceeding, with power to prescribe the extent of the participation;
- (f) respecting the keeping of a record of proceedings before the Boards;
- (g) respecting the release of information by the Boards;
- (h) respecting the publication of orders of the Boards;
- (i) respecting the annual report of the Tribunal;
- (j) prescribing any thing authorized by this Act to be prescribed by the Governor in Council;
- (k) defining any word or expression used in this Act and not defined herein;
- (l) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) A regulation made pursuant to subsection (1) may be of general application or may apply to such class or classes of hearings, applications, appeals or other matters or proceedings and to such class or classes of orders and information as the Governor in Council determines and there may be different regulations with respect to different classes.

(3) For greater certainty, where a regulation made pursuant to subsection (1) conflicts with any Act of the Legislature, that Act prevails.

(4) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

TRANSITIONAL

41 (1) A reference in any Act of the Legislature or in any rule, order, regulation, bylaw, ordinance or proceeding or in any document whatsoever to the predecessor board, or its predecessor boards set out in Section 47 of the former Act, is to be, as regards any subsequent transaction, matter or thing, be held and construed to be a reference to the Regulatory and Appeals Board or the Energy Board, or both, as the context requires.

(2) All regulations made under the former Act that are in force immediately before this Act comes into force continue to be in force under this Act.

(3) Without limiting the generality of subsection (1), a reference to the Board under the regulations made under the former Act refers to both the Regulatory and Appeals Board and the Energy Board, and a reference to the former Act is a reference to this Act.

42 Where the predecessor board is, immediately before the coming into force of this Act, required by an enactment to make a periodic report, the enactment, to the extent that it requires a periodic report, continues to apply to the Tribunal, except that the enactment is to be read and construed as requiring that compliance with the requirement be completed as soon as practical after the coming into force of this Act.

43 For greater certainty, every matter before the predecessor board immediately before the coming into force of this Act that falls within the jurisdiction of the Energy Board or the Regulatory and Appeals Board pursuant to this Act is continued before the appropriate Board and, where any such matter has been heard, in whole or in part, by any members of the predecessor board, it must be heard by those members, regardless of which Board they sit on.

44 **The former Act is repealed.**

EFFECTIVE DATE

45 This Act comes into force on and not before such day as the Governor in Council orders and declares by proclamation.

SCHEDULE B

**An Act Respecting
an Independent Energy System Operator**

- 1** This Act may be cited as the *More Access to Energy Act*.
- 2** The purpose of this Act is to
- (a) increase competition and innovation in the Province’s energy sector;
 - (b) ensure the provision of a safe, secure, reliable and economical energy supply in the Province;
 - (c) ensure a transparent, efficient and coordinated approach to Provincial energy-supply planning;
 - (d) provide for competitive procurement practices for new energy-system resources;
 - (e) support the sustainable development, sustainable prosperity, energy efficiency and greenhouse gas emissions reduction goals of the Province articulated in the *Environmental Goals and Climate Change Reduction Act*; and
 - (f) provide for a phased transition of the system operator from Nova Scotia Power Incorporated to an Independent Energy System Operator.
- 3** In this Act,
- “ancillary services” means services necessary to maintain the reliability of the IESO-controlled grid, including frequency control, voltage control, reactive power and operating reserve services;
- “Board of Directors” means the Board of Directors of the IESO;
- “bulk electricity system” means a transmission system and all generating facilities that must be registered with the IESO under the market rules, including all related communications, protection and control systems, and as may be further defined by the regulations;
- “Chair” means the Chair of the Board of Directors;
- “demand-side management” has the same meaning as in the *Public Utilities Act*;
- “director” means a member of the Board of Directors;
- “Energy Board” means the Nova Scotia Energy Board;
- “energy resources” means resources capable of providing capacity or energy, including wind, solar, hydrogen, battery technology or other energy storage resources, distributed energy, demand-side management resources, demand response and control resources, combined heat and power resources and hybrid peaking resources, and combinations of such resources;
- “energy storage” has the same meaning as in the *Electricity Act*;
- “hearing” means a public hearing, whether it is conducted electronically, orally or by written submission;
- “hybrid peaking resources” refers to electricity resources and non-electricity resources used in combination to satisfy the integrated electricity system demand;
- “IESO” means the Nova Scotia Independent Energy System Operator, a body corporate established under this Act;
- “IESO-controlled grid” means the transmission systems for which, pursuant to agreements, the IESO has authority to direct operations;
- “integrated electricity system” means the IESO-controlled grid and the structures, equipment or other things that connect the IESO-controlled grid with transmission systems and distribution systems in the Province and transmission systems outside the Province;
- “licence” means a licence issued under this Act;

“licensee” means the holder of a licence;

“market participant” means a person who is licensed by the Energy Board under this Act and authorized by the IESO to provide or convey, or to cause to be provided or conveyed, electricity or ancillary services into, through or out of the IESO-controlled grid;

“market rules” means the rules made by the IESO under this Act and Section 4 of the Wholesale Market Rules Regulations made under the *Electricity Act*;

“Market Rules and Procedures” means the document created and amended by the IESO that sets out all market rules and procedures created under this Act and any other applicable legislation;

“Minister” means the Minister of Natural Resources and Renewables;

“municipality” means a regional municipality, town or county or district municipality;

“NSPI” means Nova Scotia Power Incorporated;

“prescribed functions” means those functions prescribed by the regulations;

“public utility” has the same meaning as in the *Public Utilities Act*;

“reliability standard” means a standard, rule or requirement approved by the Energy Board and published in accordance with this Act, for the planning, design or operation of the bulk electricity system within the interconnected electricity grid, for the purpose of

(a) providing a continuous supply of power, at acceptable voltage and frequency, in the Province and within the interconnected electricity grid; and

(b) minimizing instability, uncontrolled separation or cascading failures and uncontrolled electricity flows in the Province and within the interconnected electricity grid;

“renewable electricity” has the same meaning as in the Renewable Electricity Regulations made under the *Electricity Act*;

“revenue requirements” means the annual amount of revenue required to cover projected operation, maintenance and administrative expenses, amortization expenses, taxes and payments in lieu of taxes, interest and other financing expenses, and a reasonable return on equity;

“security” means a security as defined in the *Companies Act*;

“standard service” means electricity service provided to a wholesale customer connected to the IESO-controlled grid at the charges, rates, tolls and tariffs approved by the Energy Board as applicable;

“sustainable development” has the same meaning as in the *Environment Act*;

“sustainable prosperity” has the same meaning as in the *Environmental Goals and Climate Change Reduction Act*;

“tariff” means a schedule of all charges, rates and tolls, terms and conditions, and classifications, including rules for calculation of tolls, approved by the Energy Board in accordance with this Act;

“transfer order” means an order made under Section 36;

“transmission service” means the movement or transfer of electricity at voltages of 69 kilovolts or more over an interconnected group of lines and associated equipment between points of supply and points at which it is transformed for delivery to a wholesale customer or consumer or is delivered to another electricity system;

“transmission system” means the facilities that are used to provide transmission service, and includes any structures, equipment or other things used for that service;

“transmission tariff” means a tariff approved under Section 79;

“transmitter” means a person who owns or operates a transmission system;

“Utility and Review Board” means the former Nova Scotia Utility and Review Board;

“wholesale customer” has the same meaning as in the *Electricity Act*;

“works” means the facilities that are used to provide a transmission service and includes any structures, equipment or other things used for that service;

“written hearing” means a hearing held by exchanging documents, whether in written form or electronically.

- 4 This Act applies to
- (a) utilities who produce, transmit, deliver or furnish electrical energy for the purpose of heat, light and power or steam heat, geothermal resources and geothermal heat;
 - (b) the Halifax Water district energy project;
 - (c) the holder of the franchise to supply NSPI with reasonably available, cost-effective demand-side management under the Public Utilities Act; and
 - (d) the holder of the franchise to construct and operate a gas delivery system in the Province under the Gas Distribution Act.

5 Where there is a conflict between this Act and another Act this Act prevails.

6 Where there is a conflict between a transmission tariff and the Market Rules and Procedures, the transmission tariff prevails.

NOVA SCOTIA INDEPENDENT ENERGY SYSTEM OPERATOR

- 7 (1) The Nova Scotia Independent Energy System Operator is established as a body corporate.
- (2) The *Companies Act* does not apply to the IESO, except to the extent that the Governor in Council determines.
- (3) Notwithstanding Section 71 of the *Finance Act*, the IESO is not and may not be designated as a Crown corporation under the *Finance Act* or under any other enactment.

(4) The IESO is not an agent of the Crown for any purpose.

8 The head office of the IESO must be situated in the Halifax Regional Municipality.

9 The objects of the IESO are to

- (a) exercise and perform the powers, duties and functions assigned to the IESO under this Act, the market rules and its licence;
- (b) enter into agreements with transmitters giving the IESO the authority to direct the operations of their transmission systems;
- (c) direct the operation of the IESO-controlled grid;
- (d) establish and enforce criteria and standards relating to the reliability of the integrated electricity system;
- (e) maintain the adequacy and reliability of the bulk electricity system;
- (f) procure ancillary services;
- (g) enter into interconnection agreements with transmitters;
- (h) work with responsible authorities outside the Province to coordinate the IESO's activities with their activities;
- (i) participate with any standards authority in the development of standards and criteria relating to the reliability of transmission systems;
- (j) undertake and coordinate power system planning and development responsibilities to maintain and ensure the adequacy and reliability of the bulk electricity system for present and future needs and for the efficient operation of a competitive market;
- (k) facilitate the operation of a competitive electricity market;
- (l) engage in activities related to settlements, payment under a contract entered into under the authority of this Act and payments provided for under this Act, the *Electricity Act* or the *Public Utilities Act*;
- (m) conduct procurements for energy resources, including
 - (i) electricity supply,
 - (ii) electricity capacity,

- (iii) energy storage,
- (iv) ancillary services, and
- (v) hybrid peaking resources;
- (n) engage in activities to facilitate the diversification of sources of electricity supply by promoting the use of cleaner energy sources and technologies, including alternative energy sources and renewable energy sources;
- (o) engage in activities in support of system-wide goals for the amount of electricity to be produced from different energy sources;
- (p) forecast electricity demand and the adequacy and reliability of electricity resources for the Province for the short, medium and long terms;
- (q) conduct independent planning for energy resources, demand-side management and transmission;
- (r) collect and make public information relating to the short, medium and long term electricity needs of the Province and the adequacy and reliability of the integrated electricity system to meet those needs;
- (s) perform any other function or engage in any activity the IESO considers necessary or advisable to exercise its powers and carry out its duties, responsibilities and functions under this Act and the regulations; and
- (t) perform any other duties prescribed by the regulations.

10 (1) In furtherance of the objects of the IESO, the IESO shall

- (a) develop terms of reference for and carry out an integrated resource planning exercise as required;
- (b) carry out competitive procurements of energy resources consistent with the results of the integrated resource planning exercises referred to in clause (a) and as provided for by the regulations;
- (c) issue administrative penalties in accordance with the Market Rules and Procedures; and
- (d) carry out transmission interconnection studies and implement transmission connected generation interconnection procedures in a timely manner and in accordance with the regulations to support the purpose of this Act.

(2) The IESO shall carry out procurements of energy resources, subject to any additional or alternative requirements as may be prescribed by the regulations or considered appropriate by the IESO in accordance with the Province's 2030 Clean Power Plan, the purpose of this Act and the objects of the IESO.

(3) Prior to carrying out the integrated resource planning exercise referred to in subsection (1), the IESO shall operate on the basis of the results of the most recent update to the integrated resource plan filed by NSPI with the Utility and Review Board.

11 (1) The IESO shall commence its first integrated resource planning exercise within one year following the coming into force of this Section.

(2) Prior to, or as part of, conducting an integrated resource planning exercise and subsequent competitive procurements of energy resources, the IESO shall

- (a) work with the holder of the franchise to supply NSPI with reasonably available, cost-effective demand-side management under the *Public Utilities Act* to
 - (i) develop avoided-cost calculations for demand-side management resources,
 - (ii) co-operate with the franchise holder in pursuit of its duties under this Act, including its duty to conduct integrated resource planning exercises, and
 - (iii) co-operate with the franchise holder respecting the integrated resource planning to develop avoided cost calculations for demand-side management resources and undertake reasonable cost-effective demand-side management;
- (b) evaluate the range of energy resources capable of meeting the needs of the integrated electricity system, including non-electric energy resources that can work in combination with electric resources to satisfy the integrated electricity system demand;

- (c) obtain input from market participants and other interested parties, including such expert consultants as the IESO considers appropriate; and
- (d) address such other matters as may be prescribed by the regulations.

(3) The IESO shall file the results of its integrated resource planning exercises with the Energy Board once they are complete.

12 (1) For greater certainty, nothing in this Act precludes the direct procurement of energy resources by the Province under the *Electricity Act*.

(2) For greater certainty, nothing in this Act imposes emissions caps on the IESO, and any existing caps remain the responsibility of each of the other individual market participants as applicable.

(3) Notwithstanding subsection (2), the IESO

(a) shall not require a participant to violate a lawful regulation or emissions cap, except in an emergency circumstance; and

(b) shall plan and operate the bulk electricity system in accordance with emissions regulations and renewable electricity standards.

13 (1) The business and affairs of the IESO must be carried on without the purpose of gain and any revenues must be used by the IESO for the purpose of carrying out its objects.

(2) For greater certainty, no director, officer or employee of the IESO may share in any operating surplus of the IESO.

14 The IESO has the capacity and the rights, powers and privileges of a natural person for the purpose of carrying out its objects.

15 The management and control of the affairs of the IESO is vested in a Board of Directors and the Board may, subject to this Act, exercise the powers of the IESO.

16 (1) The Board of Directors consists of

(a) not fewer than five nor more than seven directors appointed under subsection (2) or (3); and

(b) one non-voting director who is a deputy minister or other public servant appointed by the Governor in Council.

(2) The initial directors referred to in clause (1)(a) shall be appointed by the Governor in Council, hold office for the term, up to a maximum of three years, determined by the Governor in Council and remain in office, notwithstanding the expiry of their term, until reappointed or replaced.

(3) Subject to subsection (2), the directors referred to in clause (1)(a) shall be appointed as provided by the bylaws of the IESO and hold office for a term of five years.

17 (1) No member of the House of Assembly or the Executive Council or a person who has been a member of the House of Assembly or the Executive Council within the last three years may be a director.

(2) No employee of a public utility or an affiliate of a public utility may be a director.

(3) No public servant, other than the director appointed under clause 16(1)(b), may be a director.

18 (1) The Governor in Council shall designate one of the initial directors as the Chair of the Board of Directors, to hold such office for the term, not exceeding three years, determined by the Governor in Council.

(2) Subject to subsection (1), the Board of Directors may appoint or, by bylaw, provide for the appointment of one of the directors as its Chair, to hold such office for the term set by the Board or the bylaws.

19 (1) A director may participate in a meeting of the Board of Directors or of a committee of the Board by means of telephone or other communication facilities that permit all persons participating in the meeting to hear each other if

- (a) the bylaws so provide; or
- (b) subject to the bylaws, all of the directors consent.

(2) A director participating in a meeting in accordance with subsection (1) is deemed to be present at the meeting.

20 A majority of the directors appointed under Section 16 constitutes a quorum.

21 (1) A director, who is not a public servant, shall be paid such remuneration as the Board of Directors determines.

(2) The directors shall be reimbursed for reasonable expenses necessarily incurred in the performance of their duties.

22 (1) The Board of Directors may remove a director from office for cause.

(2) A director ceases to hold office under the circumstances specified in the bylaws.

23 Every director shall, in exercising the powers and performing the duties of a director,

- (a) act honestly and in good faith in the best interests of the IESO; and
- (b) exercise the care, diligence and skill that a reasonably prudent person would in comparable circumstances.

24 The directors and officers of the IESO shall comply with the provisions of the bylaws relating to conflict of interest.

25 Subject to the bylaws, the Board of Directors may delegate any of the IESO's powers, duties or authorities under this Act to any other person or body, subject to such conditions and restrictions as may be specified by the Board.

26 (1) The Board of Directors may make bylaws for the control and management of its affairs.

(2) The Board of Directors shall make a bylaw dealing with

- (a) the appointment of the chief executive officer of the IESO;
- (b) the removal of directors from office by the Board and, for the purpose of subsection 22(2), the circumstances under which a director ceases to hold office;
- (c) conflict of interest;
- (d) the delegation of the IESO's powers and duties; and
- (e) the establishment, composition and functions of a market advisory committee and such other committees as the Board considers advisable.

27 (1) The Governor in Council may authorize the Minister of Finance and Treasury Board to purchase securities of or make loans to the IESO at such times and on such terms and conditions as the Minister of Finance and the Treasury Board may determine, subject to the maximum aggregate principal amount and to any other terms and conditions that are approved by the Governor in Council.

(2) The Minister of Finance and Treasury Board may pay out of the General Revenue Fund any amount required for the purpose of subsection (1).

28 The fiscal year of the IESO ends on March 31st in each year.

29 (1) The IESO shall, at least 90 days before the beginning of each fiscal year, submit its proposed expenditure and revenue requirements for the fiscal year and the fees it proposes to charge during the fiscal year to the Energy Board for review.

(2) Where the IESO is unable to make its submission under subsection (1) within the time required under that subsection, the IESO shall file its proposed expenditure and revenue requirements for the fiscal year and the fees it proposes to charge during the fiscal year to the Energy Board for review as soon as possible.

(3) Until the Energy Board approves the proposed expenditure and revenue requirements for the fiscal year and the fees the IESO proposes to charge during the fiscal year, the fees approved for the previous fiscal year remain in effect unless the Energy Board orders otherwise.

(4) The Energy Board may approve the proposed expenditure and revenue requirements and the proposed fees or may refer them back to the IESO for further consideration with the Energy Board's recommendations.

- (5)** The IESO shall not, without the approval of the Energy Board,
- (a) establish, eliminate or change any fees it has established; or
 - (b) eliminate or change any fees established by a predecessor that remain in effect.

(6) The Energy Board may hold a hearing before exercising its powers under this Section.

30 (1) The IESO shall apply to the Energy Board for the recovery of costs for energy resource supply contracts, and any costs incurred by the IESO for the administration of those contracts, respecting settlements or payments under contracts for energy resources obtained through procurement activities or through reassignments of existing energy supply agreements from NSPI.

(2) The Energy Board shall establish a mechanism to recover the costs referred to in subsection (1) from ratepayers, and the public utilities connected to the IESO grid shall collect these amounts and remit them to the IESO.

31 The Board of Directors shall appoint a qualified auditor to audit annually the accounts and transactions of the IESO.

32 (1) Within six months after the end of every fiscal year, the IESO shall submit an annual report to the Energy Board on its affairs during that fiscal year and shall provide a copy of the report to the Minister.

(2) The audited financial statements of the IESO must be included in the annual report and the annual report must contain any further particulars the Governor in Council may prescribe by the regulations.

(3) The annual report must be laid before the House of Assembly by the Minister or, where it is not sitting, within 15 sitting days after it next sits.

(4) The IESO shall submit such other reports and information to the Minister as the Minister may require.

33 The Minister may require that the IESO make public specific information or reports at intervals specified by the Minister.

34 (1) No action or other civil proceeding may be commenced against a director, officer, employee or agent of the IESO or any member of any committee established by the IESO for any act done in good faith in the exercise or performance or the intended exercise or performance of a power or duty under this Act, the regulations, the IESO's licence, the IESO's bylaws or the market rules, or for any neglect or default in the exercise or performance in good faith of such a power or duty.

(2) Subsection (1) does not relieve the IESO of any liability to which it would otherwise be subject respecting a cause of action arising from any act, neglect or default referred to in subsection (1).

TRANSFERS

35 (1) The Minister may make orders transferring positions or roles, employees subject to a collective agreement, bargaining units, assets, liabilities, rights and obligations of NSPI to the IESO.

(2) A transfer order is binding upon NSPI, the IESO and all other persons.

(3) Subsection (2) applies notwithstanding any public or special Act or any rule of law, including an Act or rule of law that requires notice or registration of transfers.

(4) A transfer order does not require the consent of NSPI, the IESO or any other person or legal entity.

(5) A transfer order that transfers a bargaining unit or a portion of a bargaining unit from NSPI to the IESO is considered a transfer of a business and makes the IESO a transferee for the purpose of Section 31 of the *Trade Union Act*.

(6) The *Regulations Act* does not apply to a transfer order.

(7) A transfer order

(a) may only be made within the period of two years after the proclamation of this Section; and

(b) may not specify an effective date under subsection 43(1) later than two years after the proclamation of this Section.

36 (1) The IESO shall make an offer of employment to all employees of NSPI who are not subject to a collective agreement whose position or role has been transferred to the IESO, and such offer must be in accordance with Section 40.

(2) For greater certainty, an employee who has been offered a position or role with the IESO pursuant to subsection (1) may accept or decline the offer of employment.

37 (1) The Minister shall, within 90 days after a transfer order is made or amended, publish notice of the effective date of the new or amended transfer order in the Royal Gazette.

(2) Notice of the effective date that a transfer order was amended must identify the transfer order that was amended.

(3) Failure to comply with this Section does not affect the validity of a transfer order or an amendment to a transfer order.

38 A transfer order may describe positions or roles, employees subject to a collective agreement, bargaining units, assets, liabilities, rights and obligations to be transferred

(a) by reference to specific positions or roles, employees subject to a collective agreement, bargaining units, assets, liabilities, rights and obligations;

(b) by reference to any class of positions or roles, employees subject to a collective agreement, bargaining units, assets, liabilities, rights and obligations; or

(c) partly in accordance with clause (a) and partly in accordance with clause (b).

39 Where the approval of the Governor in Council or the Utility and Review Board was required under any Act or regulation respecting an asset, liability, right or obligation that is to be transferred by or pursuant to a transfer order under Section 35, or where an offer is made to an employee of NSPI not covered by a collective agreement pursuant to Section 36, the approval is deemed to have been given.

40 (1) Where a position or role, employee subject to a collective agreement, bargaining unit, asset, liability, right or obligation of NSPI is transferred to the IESO pursuant to a transfer order

(a) the period of employment of an employee of NSPI at the time of the transfer is deemed to have been employment with the IESO and the continuity of employment is not broken; and

(b) the terms and conditions of employment of an employee remain the same.

(2) Notwithstanding subsection (1), nothing in this Act limits or prevents the IESO from lawfully making changes to terms and conditions of employment for IESO employees, including lawfully terminating employment of IESO employees.

(3) For greater certainty, the transfer of positions or roles, employees subject to a collective agreement or a bargaining unit from NSPI to the IESO pursuant to a transfer order does not constitute a termination, constructive dismissal or layoff of any employee affected by the transfer order.

41 (1) A transfer order may require the IESO to pay for anything transferred by or pursuant to the order and may specify to whom the payment must be made.

(2) A transfer order may

(a) fix the amount of the payment;

(b) specify a method for determining the amount of the payment; or

(c) provide that the amount of the payment be determined by the Minister of Finance and Treasury Board or a person designated by the Minister of Finance and Treasury Board.

(3) A transfer order may require that the payment be made in cash, by set-off, through the issuance of securities or in any other form specified by the order.

(4) Where a transfer order requires that the payment be made through the issuance of securities, it may specify the terms and conditions of the securities or may authorize the Minister of Finance and Treasury Board or a person designated by the Minister of Finance and Treasury Board to specify the terms and conditions.

(5) A transfer order may

(a) fix the value of anything transferred by or pursuant to the order;

(b) specify a method for determining the value of anything transferred by or pursuant to the order; or

(c) provide that the value of anything transferred by or pursuant to the order be determined by the Minister of Finance and Treasury Board or a person designated by the Minister of Finance and Treasury Board.

(6) Where there is a disagreement respecting the amount, form, terms or conditions of a payment required, the Energy Board has jurisdiction to fix the amount, for terms or conditions to ensure they are in the best interests of ratepayers and NSPI.

42 No transfer of assets limits NSPI's ability to recover the remaining net book value of an asset or relevant asset pool.

43 (1) A transfer order may specify the date that a transfer takes effect and any interest in property that is transferred by the order vests in the IESO on that date.

(2) A transfer order may provide that a transfer not take effect until payment has been made for anything transferred by or pursuant to the order.

(3) A transfer order may provide that a transfer is deemed to have taken effect on a date earlier than the date the transfer order is made, but the effective date may not be earlier than the date of the coming into force of this Section.

(4) A transfer order may provide that transfers specified in the order and other transactions associated with the transfers are deemed to have occurred in a sequence and at times specified in the order.

44 (1) A statement in a registered document to which the IESO is a party that land described in the document was transferred to the IESO from NSPI by or pursuant to a transfer order, and any other statement in the document relating to the transfer order, is conclusive evidence of the facts stated therein.

(2) Subsection (1) does not give the IESO an interest in land that NSPI did not have.

(3) Where a transfer order transfers any land to the IESO, the Minister shall file a copy of the transfer order and any other necessary ancillary documents in the land registration office in the county or counties in which the land is situated.

(4) A document that is otherwise capable of being registered under the *Registry Act* or the *Land Registration Act* and that refers to a transfer order may be registered under the *Registry Act* or the *Land Registration Act*, as the case may be, notwithstanding any provision of those Acts.

45 A transfer order may require NSPI or the IESO

- (a) to enter into a written agreement or execute an instrument specified in the order; and
- (b) to register in accordance with the order any agreement or instrument entered into or executed under clause (a).

46 (1) A transfer order may provide that

- (a) a liability or obligation that is transferred by the order may be enforced against NSPI, the IESO or both of them; and
- (b) a right that is transferred by the order may be enforced by NSPI, the IESO or both of them.

(2) Subject to subsection (1), the transfer of a liability or an obligation under Sections 35 to 54 releases NSPI from the liability or obligation.

47 Subject to Section 48, any action or other proceeding that was commenced by or against NSPI before a transfer order takes effect and that relates to an officer, employee, bargaining unit, asset, liability, right or obligation that is transferred by the order must be continued by or against the IESO.

48 An action or other proceeding may not be commenced against the IESO respecting an officer, employee, bargaining unit, asset, liability, right or obligation that has been transferred to the IESO if, had there been no transfer, the time for commencing the action or other proceeding would have expired.

49 (1) A transfer by or pursuant to a transfer order

- (a) does not constitute
 - (i) a breach, termination, repudiation or frustration of any contract, including a contract of employment or insurance or a collective agreement,
 - (ii) a breach of any Act, regulation or municipal bylaw, or
 - (iii) an event of default or *force majeure*;
- (b) does not give rise to a breach, termination, repudiation or frustration of a licence, permit or other right;
- (c) does not give rise to a right to terminate or repudiate a contract, licence, permit or other right; and
- (d) does not give rise to an estoppel.

(2) Subsection (1) does not apply to contracts or classes of contracts prescribed by the regulations.

50 Subject to subsection 49(2), nothing in this Act and nothing done by or pursuant to a transfer order creates a new cause of action in favour of

- (a) a holder of a debt instrument that was issued by NSPI before the coming into force of this Section; or
- (b) a party to a contract with NSPI that was entered into before the coming into force of this Section.

51 A transfer order may impose conditions on the exercise of powers by the IESO that are related to positions or roles, employees, bargaining units, assets, liabilities, rights or obligations transferred by the transfer order.

52 (1) NSPI shall provide the Minister and the IESO with records or copies of records and other information that is in its custody or control and that relates to a position or role, employee, bargaining unit, asset, liability, right or obligation that is transferred by or pursuant to a transfer order, including personal information.

(2) The provision of records and information by NSPI under subsection (1) does not create a cause of action and does not constitute a breach of any Act.

53 A transfer order may contain provisions dealing with other matters not specifically referred to in Sections 35 to 52 that the Minister considers necessary or advisable in connection with a transfer.

54 (1) The Minister may, at any time within 24 months after making a transfer order, make a further order amending the transfer order in any way that the Minister considers necessary or advisable.

(2) An amendment to a transfer order may not be made after four years after the date on which this Section comes into force.

(3) Subject to subsection (2), Sections 35 to 53 apply with necessary modifications to an amendment as if it were a transfer order.

55 The *Halifax Regional Municipality Charter*, the *Municipal Government Act*, the *Sale of Goods Act*, the *Sales Tax Act*, the *Nova Scotia HST Regulations, 2010 (Canada)* and such other Acts as are prescribed by the regulations do not apply to a transfer of positions or roles, officers, employees, bargaining units, assets, liabilities, rights or obligations by or pursuant to a transfer order.

OBLIGATIONS OF NSPI

56 (1) During the transition of functions from NSPI to the IESO in accordance with this Act, NSPI shall make its best efforts to continue to carry out all such functions in the normal course so as to ensure minimum disruption to NSPI's system operations, system planning and energy resource procurement prior to and during the transition, including interconnection studies and procedures and related activities.

(2) NSPI shall make its best efforts and co-operate fully with the energy modernization transition team established under Section 86 and with the IESO in order to ensure a seamless and timely transition of those positions and roles, assets, liabilities, rights and obligations transferred or to be transferred in accordance with this Act.

57 (1) NSPI shall, in addition to its duties as a transmitter under this Act, provide the IESO in a timely manner with all relevant information and data in its possession or control, including the information and data specified by the regulations, in the format requested by the IESO, necessary to carry out the IESO's objectives and functions under this Act, including integrated resource planning exercises under Section 10.

(2) Where the IESO believes that NSPI has failed to provide the information requested under subsection (1), the IESO may apply to the Energy Board for a determination of what information NSPI is required to provide and the time period within which it must be provided.

58 NSPI shall carry out and implement non-transmission service level interconnection studies and procedures respectively in a timely manner and in accordance with the regulations in order to support the purpose of this Act.

59 (1) NSPI shall enter into an agreement with the IESO for the provision of ancillary services.

(2) The Energy Board may adjudicate any dispute arising out of or relating to the agreement referred to in subsection (1).

ELECTRICITY MARKET RULES

60 (1) The IESO may make market rules governing

(a) the IESO-controlled grid; and

(b) the relationship between the IESO, transmitters and market participants within the context of the operation of the integrated electricity system and respecting the provision of ancillary services and contracts for the supply of electricity.

(2) The IESO shall publish the market rules in the Market Rules and Procedures and ensure this document is available to the public and updated as amendments are made to the market rules.

(3) Without limiting the generality of subsection (1), the market rules may include provisions

(a) governing the conveying of electricity into, through or out of the IESO-controlled grid, the provision of ancillary services and the operation of facilities connected to the IESO-controlled grid;

(b) governing the making and publication of the market rules;

(c) authorizing and governing the giving of directions by the IESO, including

(i) for the purpose of maintaining the reliability of electricity service or the IESO-controlled grid, directing and requiring persons, within such time as may be specified in the directions, to synchronize, de-synchronize, increase, decrease or maintain electrical output or to take or refrain from taking such other action as may be specified in the directions, and

(ii) directing and requiring market participants, within such time as may be specified in the directions, to take such action or refrain from taking such action as may be specified in the directions, including action related to a system emergency;

(d) authorizing and governing the making of orders and decisions by the IESO, including orders and decisions

(i) imposing administrative penalties on market participants or transmitters,

(ii) authorizing a market participant to provide or convey, or to cause to be provided or conveyed, electricity or ancillary services into, through or out of the IESO-controlled grid, or

(iii) terminating, suspending or restricting a person's rights to provide or convey, or to cause to be provided or conveyed, electricity or ancillary services into, through or out of the IESO-controlled grid;

(e) governing the resolution of certain disputes between a market participant and a transmitter or the IESO;

(f) governing the manner in which compliance with the market rules will be monitored and enforced; and

(g) governing standards and procedures to be observed in emergencies.

(4) A market rule may be general or particular in its application.

(5) The *Regulations Act* does not apply to the market rules or to any directions or orders made under the market rules.

61 The market rules in place immediately before the coming into force of Section 60 continue to apply until amended in accordance with this Act.

62 (1) The IESO shall develop the procedures for publication in the Market Rules and Procedures including the timelines and publication of

(a) important notices; and

(b) any changes or requests for amendments to the market rules.

(2) The IESO shall establish procedures and processes for

(a) waivers from;

(b) amendments to;

(c) urgent amendments to; and

(d) other reviews of,

the market rules, in accordance with any criteria set out in this Act and the regulations.

(3) The IESO may grant a waiver from the application of a provision of the market rules and may impose such terms and conditions on the waiver as the IESO considers appropriate and in accordance with this Act and the regulations.

63 The processes and timelines for amendments to the market rules, as set out in the Market Rules and Procedures, do not apply if the IESO files a statement with the Energy Board indicating that, in its opinion, an amendment to the market rules is urgently required for one or more of the following reasons:

- (a) to avoid, reduce the risk of or mitigate the effects of conditions that affect the ability of the integrated electricity system to function normally;
- (b) to avoid, reduce the risk of or mitigate the effects of the abuse of market power in relation to the activities of a market participant that is governed by the market rules;
- (c) to implement standards or criteria of a standards authority;
- (d) to avoid, reduce the risk of or mitigate the effects of an unintended adverse effect of a market rule.

64 (1) A person who is subject to an order or decision made by the IESO under the market rules may appeal the order or decision to the Energy Board if the order or decision

- (a) requires the person to pay an administrative penalty in an amount in excess of that prescribed by the regulations;
- (b) denies the person authorization to provide or convey, or to cause to be provided or conveyed, electricity or ancillary services into, through or out of the IESO-controlled grid; or
- (c) terminates, suspends or restricts the person's rights to provide or convey, or to cause to be provided or conveyed, electricity or ancillary services into, through or out of the IESO-controlled grid.

(2) A person who is adversely affected by the granting of a waiver by the IESO under Section 62 or a person who, having applied for a waiver, is refused the waiver, whether in whole or in part, or who objects to the terms or conditions of the waiver, may appeal the decision of the IESO to the Energy Board.

(3) An appeal may not be commenced under subsection (1) or (2) unless the person appealing has followed the procedures under the market rules relating to the resolution of the dispute.

(4) An appeal must be filed within the time period specified by the market rules.

(5) An appeal does not stay the operation of an order or decision pending the determination of the appeal unless the Energy Board orders otherwise.

(6) In determining whether to stay the operation of an order or decision, the Energy Board shall consider

- (a) the public interest;
- (b) the merits of the appeal;
- (c) the possibility of irreparable harm to any person; and
- (d) the balance of convenience.

(7) After considering the appeal, the Energy Board may make any order the Energy Board deems to be appropriate, including an order or decision the IESO could have made or amending the terms and conditions of a licence.

65 A person appointed under the market rules for the purpose of resolving or attempting to resolve a dispute between a market participant and the IESO or a transmitter, or between a transmitter and the IESO, is not required in any civil proceeding to give testimony respecting information obtained in the course of resolving or attempting to resolve the dispute.

66 No person shall provide or convey, or cause to be provided or conveyed, electricity or ancillary services into, through or out of the IESO-controlled grid except in accordance with the market rules.

RELIABILITY STANDARDS

67 (1) Upon application by the IESO, a standards authority or a licence holder subject to a reliability standard, or as directed by the Energy Board, the Energy Board may, subject to and in accordance with the regulations and subject to subsection (2),

- (a) approve a reliability standard, with or without modifications;
- (b) approve modifications to an approved reliability standard;
- (c) refuse to approve a reliability standard or modifications to an approved reliability standard;
- (d) remand a reliability standard or modifications to an approved reliability standard to the IESO for further consideration; or
- (e) retire an approved reliability standard.

(2) The Energy Board may not make a decision respecting a reliability standard without having considered

- (a) the potential impact on the reliability of the bulk electricity system;
- (b) the potential cost and benefits;
- (c) the public interest;
- (d) any other factors that the Board considers relevant; and
- (e) any other factor prescribed by the regulations.

(3) The *Regulations Act* does not apply to an approved reliability standard.

68 (1) Subject to the outcome of an appeal under the regulations, an approved reliability standard applies to a person registered under subsection 69(1) or notified under the regulations of a requirement to register, to the extent that the person carries out prescribed functions to which the approved reliability standard applies, and that person shall comply with that standard.

(2) An owner, operator or user of the bulk electricity system who is required to comply with an approved reliability standard may, subject to the regulations, enter into an agreement with a person to transfer the obligation to comply with any requirements of that approved reliability standard to that person if that person is otherwise obligated to comply with those requirements.

69 (1) An owner, operator or user of the bulk electricity system who carries out prescribed functions to which an approved reliability standard applies shall register with the Energy Board in accordance with the regulations.

(2) The Governor in Council shall make regulations regarding registration for the bulk electricity system, notification processes for registration and appeal processes.

(3) The exercise by the Governor in Council of the authority in subsection (2) is a regulation within the meaning of the *Regulations Act*.

70 (1) The Energy Board is authorized

- (a) to monitor and assess compliance with approved reliability standards in accordance with the regulations, including by identifying actual or potential violations of the standards; and
- (b) to enforce approved reliability standards in accordance with this Section and the regulations, including by making orders or decisions respecting actual or potential violations.

(2) Notwithstanding any other provision of this Act or any other enactment, the Energy Board, by contract, may authorize a compliance body

- (a) to carry out the responsibility referred to in clause (1)(a) or any part of it;
- (b) to assist or advise the Energy Board respecting the responsibility referred to in clause (1)(b) or any part of it; and

(c) to carry out or exercise any power, duty, function, responsibility or authority conferred on the Energy Board under this Act or the regulations if the power, duty, function, responsibility or authority has been prescribed by the regulations for the purpose of this subsection.

(3) A compliance body authorized in accordance with clause (2)(a) or (c) to carry out or exercise powers, duties, functions, responsibilities or authorities or an employee or agent of that compliance body has the powers of inquiry provided to it by the Energy Board in accordance with Section 24 of the *Energy and Regulatory Boards Act*.

71 (1) Where the Energy Board determines a person has violated an approved reliability standard, the Energy Board may, in accordance with the regulations, make an order it deems appropriate.

(2) Where the Energy Board requires the payment of an administrative penalty under subsection (1), the penalty must be remitted to the Minister of Finance and Treasury Board to be paid into the General Revenue Fund.

(3) Any measures required or penalties levied by an order under subsection (1) must bear a reasonable relationship to the seriousness of the violation for which the order is made and must also promote future compliance with the reliability standards.

(4) An order made by the Energy Board under subsection (1) does not require a person to construct new works or alter existing works in order to increase generation or transmission capacity.

(5) In making an order under subsection (1), the Energy Board shall take into consideration any efforts of the person against whom the order is made to remedy the violation in a timely manner and any other factors it considers relevant.

72 Nothing in Sections 67 to 71 or the regulations relating to those Sections abrogates or derogates from any authority or obligation of the IESO or NSPI under this Act or the approved transmission tariff to ensure the safe, secure, adequate and reliable supply of electricity service within the Province.

TRANSMITTERS

73 Each transmitter shall provide market participants with open and non-discriminatory access to its transmission system in accordance with the market rules and the transmission tariff.

74 A transmitter shall

- (a) provide transmission system operating information to the IESO;
- (b) enter into an agreement with the IESO and operate its transmission system under the direction of the IESO;
- (c) assist the IESO respecting the establishment of connection and interconnection standards;
- (d) enter into interconnection or other agreements with the IESO;
- (e) participate in the development of standards and criteria related to the adequacy and reliability of the transmission system; and
- (f) comply with procedures established by the IESO, and directions and orders given by the IESO, to ensure the adequacy and reliability of its transmission system.

TRANSMISSION AND ANCILLARY SERVICES

75 Sections 76 to 88 apply to

- (a) all transmitters;
- (b) the IESO; and
- (c) the tariffs pertaining to the provision of transmission services and ancillary services.

76 (1) A transmission tariff pertaining to the provision of transmission services must provide for open and non-discriminatory access to transmission services.

(2) All tariffs must be just and reasonable and must, under substantially similar circumstances and conditions, be charged equally to all persons on the same basis or at the same rate.

77 The Energy Board may determine, as a question of fact, whether transmission or ancillary services under substantially similar circumstances and conditions have been charged equally to all persons on the same basis or at the same rate.

78 Unless approval to do so has been obtained from the Energy Board, neither the IESO nor any transmitter may charge or change any charge, rate or toll or any tariff respecting transmission services or ancillary services.

79 (1) The IESO shall make application to the Energy Board for approval of a transmission tariff for the provision of transmission services or ancillary services, or both, and the application must include the most recently approved revenue requirement of the transmitter for transmission services.

(2) The Energy Board shall, on receipt of an application from the IESO for approval of a transmission tariff or a tariff for ancillary services, or both, proceed in accordance with this Act and the regulations.

(3) The Energy Board shall, when considering an application by the IESO respecting an approval of a transmission tariff, base its order or decision respecting the tariff on all of the projected revenue requirements of the IESO and the transmitters for transmission services and the allocation of the revenue requirements between the IESO and the transmitters.

(4) The Energy Board shall, when considering an application by the IESO respecting an approval of a tariff for ancillary services, allow in its order or decision for mechanisms to recover the reasonable costs incurred by the IESO in the acquisition and provision of ancillary services, or base its order or decision respecting the tariff on all of the projected revenues from the sale of ancillary services and all of the projected costs to be incurred by the IESO in the acquisition or provision of ancillary services.

(5) At the conclusion of the hearing, the Energy Board may make any order respecting the tariff it deems appropriate and may set out timelines for the effective date of the tariff.

80 The IESO may not charge, demand, collect or receive a greater or lesser compensation for transmission services or ancillary services than is prescribed in the tariff approved by the Energy Board.

81 (1) The Minister may request the Energy Board to review all or any portion of a tariff approved by the Energy Board respecting the provision of transmission services or ancillary services.

(2) The Energy Board shall, on receipt of a request under subsection (1),

(a) direct the IESO to file an application for confirmation of any portion or all of the tariff; and

(b) give notice to the IESO and all transmitters of the date of the hearing of the application.

(3) At the conclusion of the hearing, the Energy Board may make any order respecting the tariff it deems appropriate and may set out timelines for the effective date of the tariff.

82 An appeal of an order of the Energy Board under this Act is governed by Section 36 of the *Energy and Regulatory Boards Act*.

83 On the coming into force of this Section, the IESO shall, with respect to transmission and ancillary services, administer and apply the transmission tariff that was in effect immediately before the coming into force of this Section, until the tariff is changed in accordance with this Act, and any approval given by the Utility and Review Board respecting the tariff before the coming into force of this Section is deemed to have been given with respect to the IESO and NSPI.

84 For the purpose of the first hearing before the Energy Board under Sections 76 to 85, the assets transferred by transfer order or otherwise attributable by virtue of a transfer order, or assets otherwise acquired by the IESO on or before the coming into force of this Section, are deemed to have been prudently acquired and useful for the operation of a transmission system or the provision of services of the IESO, and any expenditures arising from

transmission service contracts or ancillary services contracts entered into on or before the coming into force of this Section are deemed to be necessary for the provision of the service.

85 For the purpose of assessment of the Energy Board's expenses, the Energy Board may not assess any expenses against the IESO until the IESO applies for an initial revenue requirement, and those expenses are deemed an appropriate expense of the IESO collectible through its rate, tolls or charges.

86 An energy modernization transition team is established.

87 The objects of the energy modernization transition team are

(a) to ensure an orderly transition in the creation and implementation of the IESO and the transfer of positions or roles, employees, bargaining units, assets, obligations and liabilities to the IESO necessary to fulfill its objects and functions;

(b) to ensure that the creation and transition to the IESO does not negatively impact the timely development of energy resources necessary to support the integrated electricity system and achieve the objects of this Act, the *Electricity Act* and the *Environmental Goals and Climate Change Reduction Act*; and

(c) to facilitate an orderly expansion of the competitive market for energy in the Province.

88 (1) The energy modernization transition team is chaired by the Deputy Minister of Natural Resources and Renewables or the Deputy Minister's designate.

(2) The energy modernization transition team consists of such number of members determined by the Deputy Minister of Natural Resources and Renewables, or the Deputy Minister's designate, but may not have more than seven members inclusive of the chair.

PURCHASE AND SUPPLY OF ELECTRICITY

89 (1) NSPI is designated as the standard service supplier for the Province and no other person may provide standard service.

(2) For greater certainty, notwithstanding subsection (1), wholesale customers may purchase electricity from any competitive supplier as provided for in Section 3 of the *Electricity Act*.

90 (1) Subject to this Act, the standard service supplier shall provide standard service to all wholesale customers connected to the IESO-controlled grid.

(2) Where a wholesale customer decreases its consumption of standard service as a result of purchasing electricity from another supplier,

(a) it may not in the ordinary course, request a return to standard service to be effective before three years after the date on which the decrease became effective; and

(b) it must provide at least 60 days notice to the standard service provider.

(3) The standard service supplier, with respect to a request referred to in subsection (2), shall treat a request for standard service to the wholesale customer in the same manner as all requests for service received by the standard service supplier under the applicable rate schedule.

(4) A dispute over the applicable rate schedule for standard service under subsection (3) may be referred to the Energy Board by either the customer or the standard service supplier, to be adjudicated in a timely manner by the Energy Board.

91 (1) Where a wholesale customer requests a return to standard service to be effective before one year after the date on which the customer decreased its consumption of standard service, the standard service supplier shall use its best efforts to provide standard service and such service must be provided at the applicable rate schedule for such customer or on such other terms as the customer and the standard service supplier agree.

(2) A dispute over the applicable rate schedule or terms that apply for standard service under subsection (1) may be referred to the Energy Board by either the customer or the standard service supplier, to be adjudicated in a timely manner by the Energy Board.

92 (1) The standard service supplier shall maintain a back-up/top-up service tariff and a non-dispatchable supplier spill tariff that is available to wholesale customers and their suppliers to support customers who purchase electricity from another supplier pursuant to subsection 89(2).

(2) Service under the tariffs referred to in subsection (1) may be taken independently, and there is no requirement for the purchase and sale of equivalent amounts of electricity under such tariffs.

93 A wholesale customer shall notify the standard service supplier at least 11 months before it decreases its consumption of standard service as a result of purchasing electricity from another supplier.

LICENCES

94 No person shall, unless licensed to do so,

- (a) own or operate a transmission system;
- (b) direct the operation of transmission systems in the Province;
- (c) provide or convey, or cause to be provided or conveyed, electricity or ancillary services into, through or out of the IESO-controlled grid; or
- (d) engage in an electricity-related activity prescribed by the regulations.

95 (1) The Energy Board may order a person who, without a licence, has engaged in or is about to engage in an activity described in Section 94

- (a) to not engage in the activity;
- (b) to cease operating; or
- (c) to disconnect the person's apparatus.

(2) The Energy Board shall give written notice to a person against whom it intends to make an order under subsection (1).

(3) The notice must set out the reasons for the proposed order and advise the person that, within 15 days after the day that notice was given, the person may request the Energy Board to hold a hearing.

(4) Where no request for a hearing is made within the time permitted by subsection (3), the Energy Board may make an order.

96 (1) Notwithstanding any other provision of this Act or any other enactment, the Energy Board may issue an interim licence authorizing a person to undertake any of the activities described in Section 94 if the Energy Board considers doing so necessary to ensure the reliable supply of electricity.

(2) A licence issued under subsection (1) expires three months after it has been issued unless the Energy Board orders that it be extended.

97 (1) A person may apply to the Energy Board for the issuance, amendment or renewal of a licence authorizing one or more of the activities referred to in Section 94 and shall pay such application fee as is determined by the Energy Board under subsection (2).

(2) The Energy Board may provide for different classes of licences and may, for an application for the issuance, amendment or renewal of a licence, charge a reasonable fee for the application, which fee may vary for different classes of licences.

(3) Notwithstanding any other Act, the fees charged by the Energy Board under this Section may be retained by the Energy Board for its use.

(4) The Energy Board may establish forms for licence applications and require their use.

98 The Energy Board, when issuing, amending or renewing a licence, may specify the conditions under which a person may engage in an activity described in Section 94 and may specify any other conditions as the Energy Board considers appropriate, having regard to the purpose of this Act, including different terms for different classes of licences and abuse of market power.

99 The Energy Board may, on the application of any person or on its own initiative, amend a licence if it considers the amendment

- (a) to be in the public interest, having regard to the purpose of this Act; or
- (b) necessary to address abuse or potential abuse of market power.

100 The Energy Board shall make all licences available for public inspection at its office during normal business hours.

101 (1) Where the Energy Board is satisfied that a licensee is contravening, or is likely to contravene a licence, the Energy Board may make an order for compliance.

(2) The Energy Board shall give written notice to the licensee that it intends to make an order under subsection (1).

(3) Notice under subsection (2) must set out the reasons for the proposed order and advise the licensee that, within 15 days after the day that notice was given, the licensee may request the Energy Board to hold a hearing.

(4) Where the licensee requests a hearing, the Energy Board shall hold a hearing.

(5) Where no request for a hearing is made within the time permitted by subsection (3), the Energy Board may make an order, which order may include an administrative penalty.

102 (1) The Energy Board may suspend or revoke a licence if, in the opinion of the Energy Board, the licensee

- (a) is in contravention of this Act or the regulations;
- (b) is in breach of any condition of the licence or of an order or direction of the Energy Board;
- (c) is no longer in a position to operate in conformity with this Act and the conditions of the licence;
- (d) has been negligent in carrying on the activity authorized by the licence;
- (e) has made fraudulent misrepresentations in carrying on its business; or
- (f) has abused its market power.

(2) Where the Energy Board proposes to revoke or suspend a licence under subsection (1), it shall serve notice on the licensee of the proposed action, inviting the licensee to show cause why the licence should not be revoked or suspended.

(3) Notice under subsection (2) must advise the licensee that, within 30 days after the day that notice was given, the licensee may request the Energy Board to hold a hearing.

(4) Where no request for a hearing is made within the time permitted by subsection (3), the Energy Board may carry out the proposed action stated in the notice under subsection (2) and in accordance with Section 52E of the *Public Utilities Act*.

(5) Where a hearing is held, the Energy Board shall decide whether to revoke or suspend the licence.

(6) Where the Energy Board decides not to revoke or suspend the licence, the Energy Board may make an amendment to the licence it considers proper, having regard to the purpose of this Act.

103 Notwithstanding Section 102, the Energy Board may cancel a licence on the request in writing of the licensee.

104 No licence issued by the Energy Board is transferable or assignable by a licensee without the prior written approval of the Energy Board.

GENERAL

- 105 (1)** The Governor in Council may make regulations
- (a) prescribing the functions, activities and duties of the IESO;
 - (b) exempting any transfer of positions or roles, employees, bargaining units, assets, liabilities, rights or obligations pursuant to a transfer order under this Act from any other Acts or parts thereof;
 - (c) prescribing additional or alternative requirements for the IESO to operate on the basis of prior to carrying out the integrated resource planning referred to in clause 10(1)(a);
 - (d) prescribing any matter to be addressed as part of competitive procurements of energy resources under clause 10(1)(b);
 - (e) respecting integrated resource planning activities and procurement of energy resources;
 - (f) prescribing matters respecting the carrying out of transmission interconnection studies and the implementation of transmission connected generation interconnection procedures;
 - (g) prescribing eligibility criteria for a Board of Director position;
 - (h) prescribing particulars to be included in the annual report of the IESO;
 - (i) prescribing matters respecting the carrying out of non-transmission service level interconnection studies and procedures;
 - (j) prescribing information and data for the purpose of subsection 57(1);
 - (k) respecting reliability standards, including
 - (i) the filing of reliability standards and other related materials and information with the Energy Board,
 - (ii) the approval of reliability standards and the applicability, publication, modification and retirement of approved reliability standards, and
 - (iii) prescribing functions for the purpose of approved reliability standards;
 - (l) prescribing procedures and processes of market rules, including terms and conditions of waivers;
 - (m) prescribing administrative penalty amounts, including a maximum amount to be imposed;
 - (n) respecting the registration of a bulk electricity system;
 - (o) respecting compliance and enforcement of reliability standards, including orders to be issued by the Board for violations of the standards;
 - (p) respecting applications for approval of transmission tariffs;
 - (q) respecting electricity-related activities;
 - (r) prescribing prohibited activities for the purpose of Section 94;
 - (s) prescribing anything that, by this Act, is to be prescribed or is to be determined or regulated by the regulations;
 - (t) defining any word or expression used but not defined in this Act;
 - (u) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in this Section is a regulation within the meaning of the *Regulations Act*.

106 This Act comes into force on and not before such day as the Governor in Council orders and declares by proclamation.
