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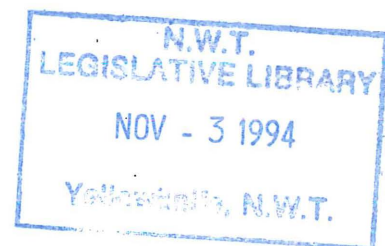
PROPOSED BILL

THE NORTHWEST TERRITORIES POWER
CORPORATION PRIVATIZATION ACT

Summary

This Bill allows agreements to be made that will transfer the assets of the Northwest Territories Power Corporation to Northwest Territories Power Limited (NWTPL) and vest the shares in NWTPL in the name of the Minister. The Bill allows the Minister to sell shares in NWTPL to Territorial residents and then to the public in general. The Bill also

- continues the Northwest Territories Power Corporation as the Northwest Territories Power Finance Corporation, which will hold a portion of the debt of the Northwest Territories Power Corporation and ensure its orderly repayment
- subjects NWTPL to regulation by the Public Utilities Board
- restricts the ownership of shares of NWTPL
- provides that the employees of the Northwest Territories Power Corporation become employees of NWTPL with similar benefits.



BILL

**THE NORTHWEST TERRITORIES POWER
CORPORATION PRIVATIZATION ACT**

The Commissioner of the Northwest Territories,
by and with the advice and consent of the Legislative
Assembly, enacts as follows:

PART I

INTERPRETATION

- Definitions 1. (1) In this Act,
- "Corporation"
«Société» "Corporation" means the body corporate referred to
in subsection 3(1);
- "Government"
«gouverne-
ment» "Government" means the Government of the
Northwest Territories;
- "Minister"
«ministre» "Minister" means the Minister responsible for the
Corporation;
- "NWTPL"
«ÉTNOI» "NWTPL" means Northwest Territories Power
Limited, a body corporate incorporated under the
Companies Act;
- "privatization
transaction"
«opération de
privatisation» "privatization transaction" means a transaction
entered into under subsection 4(1);
- "resident"
«résident» "resident" means
- (a) an individual who is ordinarily resident
in the Territories,
 - (b) a body corporate having its head office
in the Territories,
 - (c) a body corporate of which the majority
of
 - (i) the directors,
 - (ii) the persons occupying the position
of director by whatever name
called, or
 - (iii) the persons acting in a capacity
similar to that of a corporate
director,are ordinarily resident in the Territories,
 - (d) a trust in which residents of the
Territories as defined in any of
paragraphs (a) to (c) have more than
50% of the beneficial interest, or

(e) a body corporate that is controlled directly or indirectly by a trust described in paragraph (d).

Meaning of words and expressions

(2) Unless a contrary intention appears, words and expressions used in this Act have the same meaning as in the *Companies Act*.

Application of *Companies Act*

(3) Subject to this Act, the *Companies Act* applies to NWTPL.

Where conflict with *Companies Act*, memorandum or articles

(4) The provisions of this Act prevail where there is any inconsistency between this Act and the *Companies Act*, and the provisions of this Act and the regulations prevail where there is any inconsistency between those provisions and the provisions of regulations made under the *Companies Act* or the provisions of the memorandum or articles of NWTPL.

Government bound

2. This Act is binding on the Government.

PART II

PRIVATIZATION OF THE CORPORATION

Corporation continued

3. (1) The Northwest Territories Power Corporation established by the *Northwest Territories Power Corporation Act* is hereby continued as the Northwest Territories Power Finance Corporation.

Effect of change of name

(2) For greater certainty, the change of name effected by subsection (1) does not affect

- (a) an existing cause of action or claim or liability to prosecution in favour of or against the Corporation or its directors or officers; or
- (b) any civil, criminal or administrative action or proceeding to which the Corporation is a party or its directors or officers are parties.

Privatization transactions

4. (1) Notwithstanding any other enactment, the Minister may, on behalf of the Government, enter into transactions or cause transactions to be entered into that will, directly or indirectly, result in

- (a) the vesting in NWTPL of such property (including shares of other corporations) and rights, and the assumption by NWTPL of such liabilities and

obligations, of the Corporation as the Minister may determine, subject to such terms and conditions as may be imposed by the Minister;

- (b) the vesting in the Government, as represented by the Minister, of such number and kind of shares of NWTPL as, in the opinion of the Minister, are necessary to provide the consideration for the vesting of property and rights in NWTPL under paragraph (a); and
- (c) the disposition and sale by the Government, as represented by the Minister, of the shares of NWTPL acquired under paragraph (b) for such consideration as the Minister considers appropriate.

Direction of Minister

(2) The Corporation and NWTPL are hereby authorized to enter into the transactions referred to in subsection (1) and shall do so at the direction of the Minister.

Property, etc. remaining in the Corporation

(3) Any property or right of the Corporation that is not vested in, and any liability or obligation of the Corporation that is not assumed by, NWTPL pursuant to a privatization transaction remains the property, right, liability or obligation of the Corporation.

Agreement re liability or obligation of the Corporation

(4) Where a liability or an obligation of the Corporation is not assumed by NWTPL pursuant to a privatization transaction, the Minister may enter into an agreement or other arrangement with NWTPL, the Corporation or any other person respecting the service or discharge of the liability or obligation or confirming a guarantee given by the Government in respect of the liability or obligation.

Assumption of liability by the Corporation

(5) Where a liability or an obligation of the Corporation is assumed by NWTPL pursuant to a privatization transaction, NWTPL is directly liable to the person to whom the liability or obligation is due or by whom it is held as if NWTPL had incurred it on its own behalf and, unless that liability or obligation relates to a debt of the Corporation guaranteed by the Government, any liability of the Government, the Commissioner or the Corporation with respect to it is extinguished.

Waiver of
right to
acquire assets
of Corporation

(6) A preferential or other right to acquire any assets of the Corporation is deemed to be waived by the person entitled to the benefit of the right and has no effect with respect to a privatization transaction as against NWTPL, the Government, the Commissioner or the Corporation, and NWTPL shall, in respect of any matter arising after the closing of the privatization transactions, observe, fulfil and perform those preferential or other rights as the person directly liable for their observation, fulfilment or performance.

Waiver of
rights to
acquire
assets of
other
corporations

(7) A preferential or other right to acquire any assets of a corporation, all the shares of which are vested in NWTPL pursuant to a privatization transaction, is deemed to be waived by the person entitled to the benefit of the right and has no effect with respect to a privatization transaction as against NWTPL, the Government, the Commissioner or the corporation, and the corporation shall, in respect of any matter arising after the closing of the privatization transactions, observe, fulfil and perform those preferential or other rights as the person directly liable for their observation, fulfilment or performance.

Waiver of
notice, consent
or approval

(8) For the purpose of effecting a privatization transaction, a notice, consent or approval required pursuant to an enactment, an agreement or a franchise that relates to assets of the Corporation or the assets of a corporation all the shares of which vest in NWTPL pursuant to a privatization transaction is deemed to be waived by the person entitled to receive the notice or give the consent or approval and the requirement for notice, consent or approval has no effect with respect to the privatization transaction, but NWTPL or the corporation, as the case may be, shall, in respect of any matter arising after the closing of the privatization transactions, comply with all requirements for the giving of the notice or obtaining the consent or approval as if it were the person directly responsible for the compliance.

Waiver of
default or
breach

(9) A default or breach of a covenant, representation or warranty that occurs under a document binding on the Government, the Commissioner, the Corporation, NWTPL or a corporation all the shares of which vest in NWTPL pursuant to a privatization transaction or relating to assets of the Corporation or the corporation, by

reason of the entering into or the implementation of a privatization transaction, is deemed to be waived by the person entitled to the benefit of the covenant, representation or warranty and has no effect, but such waiver is without prejudice to the rights of any person in respect of a default or breach occurring after the closing of the privatization transactions.

Regulations (10) The Commissioner, on the recommendation of the Minister, may make regulations exempting a privatization transaction from the application of an enactment or a portion of an enactment other than this enactment.

Retroactivity (11) A regulation made under subsection (10) shall, if it so provides, have retroactive effect to a day that is not earlier than the day this section comes into force.

Publication of date (12) The Minister shall ensure that notice of the date the privatization transactions close is published in the *Northwest Territories Gazette*.

No right to compensation 5. No person has a right to compensation by reason only of the operation of section 4.

Interpretation 6. Nothing in this Act means or shall be construed to mean that the Government is no longer liable for any guarantee given by it in respect of a debt of the Corporation or that the Corporation is no longer liable to a debt holder for that debt.

Rates and rate schedules of NWTPL 7. (1) The rates and rate schedules of the Corporation as approved by the Public Utilities Board and in effect immediately preceding the closing of the privatization transactions are the rates and rate schedules of NWTPL and are deemed to have been approved by the Public Utilities Board on the closing of the privatization transactions.

Rate base of NWTPL (2) The rate base for the property of the Corporation transferred to NWTPL pursuant to a privatization transaction in effect immediately preceding the closing of the privatization transactions is the rate base of NWTPL for the property immediately following the closing of the privatization transactions and is deemed to have been determined as the rate base by the Public Utilities Board on the closing of the privatization transactions.

Fixed asset
segment of
rate base

(3) For the purposes of subsection (2), the fixed asset segment of the rate base for NWTPL on the closing of the privatization transactions is equal to the Corporation's investment in fixed assets less accumulated depreciation as recorded in the books of the Corporation as at March 31 of its last fiscal year before the coming into force of this section to which shall be added the Corporation's investment in fixed assets brought into service during the period commencing the day after that day and ending on the day immediately preceding the closing of the privatization transactions, less depreciation charged by the Corporation in respect of those assets during that period in accordance with generally accepted accounting principles.

Reference to
Corporation
in rule,
order,
approval,
regulation, by-
law, document

8. On the closing of the privatization transactions, a reference to the Corporation in a rule, order, approval, regulation, by-law or document shall, with respect to any property or rights vested in NWTPL or any liabilities or obligations assumed by NWTPL or any matter or thing relating to such property, rights, liabilities or obligations, be construed as a reference to NWTPL, unless an agreement entered into under section 4 in respect of a privatization transaction provides otherwise, and NWTPL has the same rights, liabilities, obligations and status that the Corporation had in respect of the rule, order, approval, regulation, by-law or document.

Reference
to the
Corporation
in franchise

9. Where a franchise is acquired by NWTPL pursuant to a privatization transaction,

- (a) a reference to the Corporation in the franchise shall be deemed to be a reference to NWTPL;
- (b) an approval by the Public Utilities Board or a grant of a franchise by the Minister under the *Public Utilities Act* in respect of the franchise is deemed to be an approval or grant of the franchise to NWTPL; and
- (c) NWTPL has the same rights, liabilities, obligations and status that the Corporation had in respect of the franchise.

Property,
rights and
interests of
Government
held by
NWTPL

10. (1) For the purpose of effecting the privatization transactions, all property, rights and interests of the Government or the Commissioner held by the Corporation, and all obligations and liabilities of the Government and the Commissioner that have been incurred or assumed by the Corporation and still exist, on the coming into force of section 4 shall be deemed to vest in the Corporation, immediately before the closing of the privatization transactions.

Exempt
property
rights and
interests

(2) The Commissioner in Executive Council may, by order, exempt any property, right, interest, obligation or liability of the Government or the Commissioner from the application of subsection (1).

Enactments
that do not
apply to
privatization

11. The following enactments do not apply to a privatization transaction or to the issuance, acquisition, disposition or other dealing with shares of NWTPL in connection with a privatization transaction:

- (a) the *Bills of Sale Act*,
- (b) subsections 77(6) and (7) of the *Workers' Compensation Act*,
- (c) sections 66 to 71 of the *Public Utilities Act*.

Shares
acquired by
Minister

12. (1) Shares of NWTPL acquired by the Minister pursuant to a privatization transaction shall be registered in the name of the Minister and held by the Minister in trust for the Government.

All shares may
be held

(2) Notwithstanding the *Companies Act*, the Minister may hold all the shares in NWTPL.

Authority of
Minister to
deal with
shares

- (3) The Minister is hereby authorized to
- (a) acquire, hold, dispose of, invest in and otherwise deal with shares or debt obligations of, or any security interest in, NWTPL; and
 - (b) enter into any agreement or arrangement or issue to the Corporation any debt obligation of the Government necessary for or incidental to any activity referred to in paragraph (a).

Dividends

(4) A dividend or other amount received by the Minister in right of, or on the disposal of, a share, debt obligation or security interest acquired by virtue of this Act shall be paid into the Consolidated Revenue Fund.

Offering to public

13. Where shares of NWTPL acquired by the Minister pursuant to the privatization transactions are offered to the public at large, the Minister shall first offer the shares to residents in accordance with the priority rules set out in the regulations.

Expenses payable by Government

14. All expenses of the privatization transactions including, without limiting the generality of the foregoing, the following are for the account of the Government and shall be paid out of the Consolidated Revenue Fund:

- (a) services of legal, accounting, securities or other financial advisers;
- (b) qualification of shares or related instruments for sale to the public;
- (c) preparation, translation, printing and delivery of a prospectus or preliminary prospectus required under the laws in Canada respecting securities;
- (d) certificates or instruments representing or related to shares;
- (e) listing of shares or related instruments on a stock exchange;
- (f) underwriting and agency fees, commissions and related expenses.

PART III

NWTPL

Memorandum and articles

15. (1) The memorandum and articles of NWTPL, filed with the Registrar of Companies appointed under the *Companies Act*, shall reflect the provisions of this Part on the closing of the privatization transactions.

Mode of amendment

(2) Notwithstanding Part III of the *Companies Act*, NWTPL may make any amendments to its memorandum and articles in order to comply with subsection (1) by special resolution, whether or not it is authorized to do so by its articles and notwithstanding any conditions in its memorandum.

When amendments take effect

(3) A resolution under subsection (2) does not take effect until it is filed with the Registrar of Companies.

Certificate
of changes

(4) The Registrar shall issue under the seal of the office of the Registrar a certificate showing the amendments effected by the resolution.

Where no
right to
vote shares

16. (1) Where a person or the members of a group of associated persons hold, beneficially own or directly or indirectly control a number of voting shares that in the aggregate entitle the holders to cast more than 10% of the total number of votes attached to all voting shares of NWTPL then issued and outstanding, none of the voting shares held by that person or the members of that group of associated persons may be voted, personally or by proxy, at a meeting of shareholders.

Where section
not applicable

(2) This section does not apply to voting shares that are

- (a) acquired by the Minister pursuant to a privatization transaction;
- (b) held by an underwriter solely for the purpose of distributing the shares to the public; or
- (c) held by a person that is acting in relation to the shares in its capacity as an intermediary in the payment of funds or the delivery of securities or both in connection with trades in securities and that provides centralized facilities for the closing of trades in securities.

Request for
declaration
re ownership,
association

17. (1) A shareholder of NWTPL shall, on the written request of NWTPL given in accordance with subsections (2) and (3) and the articles, submit a statutory declaration to NWTPL with respect to any or all of the following:

- (a) the shareholder's beneficial ownership of any voting shares;
- (b) the identity of the beneficial owner of all or any of the voting shares in the name of the shareholder;
- (c) whether the shareholder is associated with any other person specified in the request;
- (d) any matter relevant for the purposes of determining whether voting shares have been or could be voted in contravention of section 16.

Form of request

(2) A request under subsection (1) shall set out the period of time within which the request must be complied with, which period must not be less than 30 days after notice of the request is given.

Service of request

(3) A request under subsection (1) may be sent by mail or personally served and, where it is sent by registered mail,

- (a) it shall be deemed to have been given 15 days after the day it is sent; and
- (b) the date appearing on the postal receipt shall be deemed to be the date of mailing.

Where paragraph (3)(a) does not apply

(4) Paragraph (3)(a) does not apply where the person to whom the request was sent proves, on a balance of probabilities, that he or she did not receive the request within the 15 day period referred to in that paragraph notwithstanding that he or she acted in good faith and without intent to avoid service.

Failure to submit declaration

(5) Where a statutory declaration has been requested under this section from a shareholder and the shareholder fails or neglects to submit to NWTPL a declaration satisfactory to the board of directors of NWTPL within the period of time set out in the request, then, subject to subsection (5), none of the voting shares held by the shareholder may be voted at a meeting of shareholders.

Late submission

(6) Where a statutory declaration is submitted by a shareholder from whom it has been requested after the period of time set out in the request, the board of directors may consider it and, if it is satisfactory to the board, the voting shares held by the shareholder may be voted at a meeting of the shareholders.

Effect of contravention

(7) If voting shares are voted at a meeting of the shareholders in contravention of section 16 or a statutory declaration referred to in paragraph 26(2)(a), no vote or other proceeding at the meeting is void by reason of the contravention, but any such vote or proceeding is, at any time within one year after the day on which the meeting commenced, voidable at the option of the board of directors of NWTPL by a resolution of the board.

Application
for ruling

(8) Any person may apply to the board of directors of NWTPL for a ruling as to whether or not a person or members of a group of persons fall within section 16.

Ruling

(9) Where, on an application under subsection (8), the board of directors of NWTPL is satisfied that a person is or is not a member of a group of associated persons or that a person or the members of a group of associated persons do or do not beneficially own or directly or indirectly control a number of voting shares that in the aggregate entitle the holder or holders to cast more than 10% of the total number of votes attached to all voting shares of NWTPL then issued and outstanding as described in section 16, it may rule accordingly.

Board
bound

(10) Where a ruling is made under subsection (8), the board is bound by it unless the applicant did not disclose a material fact to the board before it made the ruling or unless there is a subsequent material change in circumstances.

NWTPL, etc.
may rely on
statements

18. In determining whether a voting share was voted in contravention of section 16 or whether a person is associated with any other person or in determining any other circumstance relevant to the performance of the duties of the board of directors of NWTPL,

- (a) NWTPL and any director, officer, employee or agent of NWTPL may rely on any statement made in a statutory declaration submitted under subsection 17(1) or paragraph 26(2)(a) or rely on the knowledge of any of the directors of the circumstances; and
- (b) NWTPL and its directors, officers, employees and agents are not liable for anything done or omitted by them in good faith as a result of any conclusions made by them on the basis of any statement or knowledge referred to in paragraph (a).

Application
to Supreme
Court

19. (1) A shareholder or beneficial owner of a share may apply to the Supreme Court for an order under this section.

Order of
Supreme Court

(2) Where, on an application under subsection (1), the Supreme Court is satisfied that a majority of the directors then holding office consist of individuals who were elected at an election, or appointed to replace directors elected at an election, at which voting shares were voted in contravention of section 16 or a statutory declaration referred to in paragraph 26(2)(a), the Court may make any interim or final order it considers appropriate to remedy the situation including, without limiting the generality of the foregoing, any of the following:

- (a) an order restraining the board of directors from exercising any powers specified in the order;
- (b) an order removing from office the directors then holding office;
- (c) an order appointing directors or requiring an election of directors and providing for the terms of office of the new directors.

Required
statement
on share
certificate

20. A share certificate issued after this section comes into force in respect of any shares of NWTPL shall contain a legible statement that this Act applies to the shares.

Offering to
public

21. When making an offering of voting shares to the public at large, NWTPL shall ensure that the shares available for sale are issued to residents in priority to non-residents.

Limitation on
transfer of
assets

22. (1) NWTPL may not sell, transfer, exchange or otherwise dispose of, whether by one transaction or other event or several related transactions or other events, all or substantially all its assets to any one person or group of associated persons, except by way of security only in respect of the financing of NWTPL.

Assets defined

(2) In this section, "assets" means assets owned or used by NWTPL in the development, generation, production, transmission, distribution, marketing, supply or use of electricity, water, sun, wind, steam, gas, oil or other products or things used or useful in the production of energy.

Head office

23. The head office and the principal executive offices of NWTPL shall be situate in the Territories.

Prohibited
changes

24. NWTPL and its shareholders and directors may not

- (a) amend the memorandum or the articles of NWTPL in a manner inconsistent with this Act; or
- (b) apply for continuance of NWTPL in another jurisdiction.

Natural person

25. Subject to this Act, NWTPL has the capacity, rights, powers and privileges of a natural person.

Meaning of
associate

26. (1) For the purposes of this Part, a person is an associate of another person if

- (a) one is a corporation of which the other is an officer or director;
- (b) one is a corporation that is controlled by the other or by a group of persons of which the other is a member;
- (c) one is a partnership of which the other is a partner;
- (d) one is a trust of which the other is a trustee;
- (e) both are corporations controlled by the same person;
- (f) both are members of a voting trust or parties to a voting agreement that relates to voting shares of NWTPL;
- (g) one of the persons is a government and the other is an agent of that government;
- (h) both are agents of the same government;
- (i) both, in the opinion of the board of directors of NWTPL, as evidenced by a resolution of the board, are parties to an agreement or arrangement under which they act in concert with respect to their direct or indirect interests in NWTPL or otherwise have been or are acting in concert with respect to those interests;
- (j) both are holders of the same voting shares whether as shareholders or beneficial owners or otherwise; or
- (k) both are at the same time associates, within the meaning of any of paragraphs (a) to (j), of the same person.

Where persons
not associates

(2) Notwithstanding subsection (1),

- (a) where a person who, but for this paragraph, would be an associate of another person submits to NWTPL a statutory declaration containing the following statements, the declarant and the other person named in the statutory declaration are not associates as long as the board of directors of NWTPL is satisfied that the statements in the declaration are being complied with and there are no other reasonable grounds for disregarding the declaration:
 - (i) that no voting shares of NWTPL held or to be held by the declarant are or will be, to the declarant's knowledge, held in the right of, for the use or benefit of or under the control of any other person of which, but for this paragraph, the declarant would be an associate, and
 - (ii) that declarant is not acting and will not act in concert with such other person with respect to their interests, direct or indirect, in NWTPL;
- (b) two corporations are not associates under paragraph (1)(k) by reason only that under paragraph (1)(a) each is an associate of the same individual; and
- (c) where the board of directors of NWTPL is of the opinion, as evidenced by a resolution of the board, based on information in the register of shareholders of NWTPL or another source, that any person holds, beneficially owns or controls voting shares to which are attached not more than the lesser of two one-hundredths of 1% of the votes that may ordinarily be cast to elect directors of NWTPL and 1,600 such votes, that person is not an associate of anyone else and no one else is an associate of that person.

Control
defined

(3) For the purposes of this Part, "control" means control in any manner that results in control in fact, whether directly through the ownership of securities or indirectly through a trust, an agreement, an arrangement, the ownership of any body corporate or otherwise, and, without limiting the generality of the foregoing,

- (a) a body corporate is controlled by a person if
 - (i) securities of the body corporate to which are attached more than 50% of the votes that may be cast to elect directors of the body corporate are held, otherwise than by way of security only, by or for the benefit of that person, and
 - (ii) the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the body corporate;
- (b) a partnership or unincorporated organization is controlled by a person if an ownership interest in the partnership or organization representing more than 50% of the property of the partnership or organization is held, otherwise than by way of security only, by or for the benefit of that person; and
- (c) a corporation is controlled by a person if the corporation is, in the opinion of the board of directors of NWTPL, as evidenced by a resolution of the board, then in fact effectively controlled by that person directly or indirectly through
 - (i) the holding of shares of the corporation or any other corporation,
 - (ii) the holding of outstanding debt of the corporation, or
 - (iii) any means of a like nature to or a different nature from that set out in subparagraphs (i) and (ii).

Definitions

(4) In this section,

"corporation"
-société- "corporation" includes a body corporate, partnership and unincorporated organization;

"person"
-personne- "person" includes an individual, corporation, trust, government or agency of government;

"voting share"
-action avec droit de vote- "voting share" means a share carrying a voting right under all circumstances or under certain circumstances that have occurred and are continuing at the material time and includes a security then convertible into such a share and a then exercisable option or right to acquire such a share or convertible security.

PART IV

GENERAL

Employees

- Definitions 27. (1) In this section and in section 28,
- "collective agreement"
«convention collective» "collective agreement" means the collective agreement, as defined in subsection 41(1) of the *Public Service Act*, in effect on the day on which the privatization transactions close, between the Government and the Union of Northern Workers in respect of the employees;
- "employee"
«employé» "employee" means an individual who is an employee of the Corporation on the closing of the privatization transactions.
- Change of employment (2) On the closing of the privatization transactions, an employee
- (a) ceases to be employed in the public service within the meaning of the *Public Service Act* and becomes an employee of NWTPL; and
 - (b) shall be deemed to be an employee of NWTPL on substantially the same terms and conditions as to salary and benefits, excluding pension benefits, as those under which the employee was employed immediately before the closing of the privatization transactions.
- Salary and benefits continue (3) The terms and conditions as to salary and benefits, excluding pension benefits, referred to in paragraph (2)(b) shall remain in place for a period of 12 months after the day the privatization transactions close.
- Deemed service (4) Except in respect of the pension plan referred to in section 28, an employee is deemed to have the same service with NWTPL as the employee had with the Corporation on the closing of the privatization transactions.
- Interpretation (5) Nothing in this section means or shall be construed to mean that there has been a termination of the employment of an employee.

Termination of collective agreement (6) The collective agreement terminates on the closing of the privatization transactions.

Continuation of benefits (7) Benefits, excluding pension benefits, accumulated by an employee while an employee of the Corporation are continued and vested in the employee and the employee is entitled to receive those benefits from NWTPL and NWTPL shall provide those benefits to the employee.

Not members of public service (8) The employees of NWTPL are not employed in the public service within the meaning of the *Public Service Act*.

Offer re pension plan 28. (1) Subject to the transfer of the funds in the Superannuation Account continued pursuant to the *Public Service Superannuation Act (Canada)*, NWTPL shall offer to the employees a pension plan that will provide the employees,

- (a) with respect to their period of employment with the Corporation, benefits similar to those to which the employees would have been eligible, immediately before the closing of the privatization transactions, under the *Public Service Superannuation Act (Canada)* as employees of the Corporation; and
- (b) with respect to their period of employment with NWTPL, benefits no less advantageous than those to which they would have been eligible if, during that period, they continued to be employees of the Corporation and to contribute under that Act as it read immediately before the closing of the privatization transactions.

Implementation of pension plan (2) Where, on a vote by employees who were, immediately before the closing of the privatization transactions, contributors under the *Public Service Superannuation Act (Canada)*, ___% of the employees accept the pension plan offered by NWTPL under subsection (1), NWTPL shall implement the plan forthwith.

Tax Rebates

Definitions	29. In sections 30 to 32.
"Canadian Act" «Loi fédérale»	"Canadian Act" means the <i>Public Utilities Income Tax Transfer Act</i> (Canada);
"federal tax rebate" «remise d'impôt fédérale»	"federal tax rebate" means an amount paid to the Territories in respect of NWTPL pursuant to the Canadian Act;
"Fund" «fonds»	"Fund" means the Northwest Territories Power Limited Tax Rebate Fund established by subsection 30(1).
Establishment of Fund	30. (1) There is hereby established in the Consolidated Revenue Fund a fund to be known as the Northwest Territories Power Limited Tax Rebate Fund.
Administration of Fund	(2) The Minister of Finance shall administer the Fund and keep a separate accounting record of the Fund.
Payment into Fund	31. (1) Money received by the Government by way of federal tax rebate after the closing of the privatization transactions shall be paid into the Fund.
Income of Fund	(2) Income of the Fund accrues to the Consolidated Revenue Fund.
Payment from Fund	32. (1) Subject to subsection (2) and the regulations, the Minister shall pay from the Fund to NWTPL for its own use and benefit the money paid into the Fund under subsection 31(1).
Where repayment required	(2) Where, pursuant to the Canadian Act, the Government is required to repay to the Government of Canada an amount that the Government has paid to NWTPL, the Minister may <ol style="list-style-type: none">recover the amount from NWTPL as a debt due to the Government from NWTPL;set off and recover the amount against and from other amounts that the Minister might otherwise pay to NWTPL under subsection (1); andpay any amount that the Government is required to repay to the Government of Canada from the Fund or from the Consolidated Revenue Fund and, if the

amount is paid from the Consolidated Revenue Fund, the Minister may pay or transfer the amount from the Fund to the Consolidated Revenue Fund.

Certification of payment

(3) Where an amount paid to the Government is paid or otherwise transferred or credited to NWTPL for its own use and benefit, the Minister or such other person as may be permitted under the Canadian Act shall certify, in the form and manner required under the Canadian Act, that fact and the amount that has been paid or otherwise transferred or credited.

Regulations

33. The Commissioner, on the recommendation of the Minister, may make regulations

- (a) prescribing the terms and conditions on which payments may be made to NWTPL under section 32;
- (b) prescribing rules for the determination of any matter to be determined by the Minister under sections 30 to 32;
- (c) defining an expression used in but not defined for the purposes of sections 29 to 32; and
- (d) to carry out effectively the intent and purposes of sections 30 to 32.

Application of the *Mechanics' Lien Act*

Mechanics' Lien Act

34. The *Mechanics' Lien Act* applies to NWTPL only in respect of construction undertaken pursuant to a contract entered into after the closing of the privatization transactions.

Application of the *Planning Act*

Definitions

35. (1) In this section,

"electric distribution system"
"réseau de distribution de l'électricité"

"electric distribution system" means any system, works, plant, equipment or service for the delivery, distribution or furnishing of electric energy to a consumer, but does not include a power plant or a transmission line;

"electric energy"
"énergie électrique"

"electric energy", in addition to its ordinary meaning, includes

- (a) energy associated with an electromotive force, and
- (b) power and reactive power and other

electromagnetic effects associated with electric energy;

"substation"
«poste» "substation" means a part of a transmission line and includes equipment for transforming, compensating, switching, rectifying or inverting electric energy flowing to, over or from the transmission line;

"transmission line"
«ligne de transport d'énergie» "transmission line" means a system or arrangement of lines of wire or other conductors and transformation equipment by which electric energy, however produced, is transmitted in bulk, and includes

- (a) transmission circuits composed of the conductors that transmit electric energy,
- (b) insulating and supporting structures,
- (c) substations,
- (d) operational and control devices, and
- (e) property of any kind used for the purpose of, in connection with or incidental to the operation of a transmission line, but does not include a power plant or an electric distribution system.

Application of enactments to development or subdivision (2) The *Planning Act*, any land-use policy of the Government, any regulation respecting land-use or subdivision and any planning strategy, land-use by-law or subdivision by-law of a municipality does not apply where a development or subdivision is made for the purpose of a transmission line, substation or electric distribution system.

Miscellaneous

Liability re
contracts
entered into
before
privatization
transactions

36. Where a plant or facility or any part of a plant or facility malfunctions and NWTPL is unable to supply energy or where NWTPL is unable to supply water or sewerage service and NWTPL, with due regard for cost and circumstance, promptly makes repairs and, pending the repairs, takes all reasonable steps to supply energy or water or sewerage service from other sources, if other sources are reasonably available, NWTPL is not liable pursuant to any contract vested in NWTPL pursuant to the privatization transactions for any claim for inconvenience or economic loss suffered by any person by reason of the failure to supply energy or water or sewerage service.

Permission
or authority
continues

37. (1) Nothing in this Act affects or shall be deemed to affect any permission or authority granted by the Government or the Commissioner to the Corporation to erect and maintain power lines on Commissioner's land or land held by the Government or the Commissioner and any such permission or authority continues in favour of NWTPL as if the permission or authority were granted to NWTPL.

Right to
enter land

(2) The right of the Corporation to enter land adjacent to any watercourse used in connection with the storage or flow of water for the generation of energy for the purpose of inspection and maintenance of the watercourse or any structure of the Corporation situate on such land is hereby extended to NWTPL and nothing in this Act affects or shall be deemed to affect those rights.

Not agent of
Government

38. NWTPL is not an agent of the Government.

Regulations

Regulations

39. The Commissioner, on the recommendation of the Minister, may make regulations

- (a) respecting the offering, promotion, advertising, distribution and sale of shares of NWTPL held by the Minister including rules setting out, for the purposes of section 13, the nature and extent of the priority of residents;
- (b) setting out the procedure for the vote referred to in subsection 28(2); and

- (c) respecting any other matter the Commissioner considers necessary or advisable to carry out the intent and purposes of this Act.

Consequential Amendments

Financial Administration Act 40. Item 2 of Schedule B of the *Financial Administration Act* is repealed and the following is substituted:

2. The Northwest Territories Power Finance Corporation continued by the *Northwest Territories Power Finance Corporation Act*.

Northwest Territories Power Corporation Act 41. (1) The *Northwest Territories Power Corporation Act* is amended by this section.

(2) The title of the Act is repealed and the following is substituted:

NORTHWEST TERRITORIES POWER FINANCE CORPORATION ACT

(3) Section 1 is repealed and the following is substituted:

Corporation defined 1. In this Act, "Corporation" means the Northwest Territories Power Finance Corporation continued by the *Northwest Territories Power Corporation Privatization Act*.

(4) Sections 3 and 3.1 are repealed.

(5) The heading preceding section 4 and subsection 4(1) are repealed and the following is substituted:

NORTHWEST TERRITORIES POWER FINANCE CORPORATION

(6) Subsection 5(1) is repealed and the following is substituted:

Object 5. (1) The object of the Corporation is to ensure that the debt of the former Northwest Territories Power Corporation guaranteed by the Government is discharged in an orderly and timely manner and for

this purpose the Corporation may

- (a) purchase, redeem or pay off any note, bond, debenture or security of the former Northwest Territories Power Corporation for which the Government has given a guarantee;
- (b) enter into any agreement that is conducive to its object including an agreement with any authority or government;
- (c) sell, improve, manage, exchange, lease, dispose of or otherwise deal with the property and rights of the Corporation;
- (d) draw, make, accept, endorse, execute and issue promissory notes, bills of exchange and any other negotiable or transferable instrument;
- (e) do all or any of the above things as principal, agent, contractor or otherwise;
- (f) do all other things that are incidental or conducive to the attainment of the object and the exercise of the powers of the Corporation.

(7) Sections 8 to 11 are repealed.

(8) Section 12.1 is repealed and the following is substituted:

Chief executive officer

12.1. (1) The president is the chief executive officer of the Corporation and, as such, shall supervise, manage and direct the business of the Corporation in accordance with such directions as the Minister may give.

Not a statutory instrument

(2) For greater certainty, a direction given under subsection (1) shall not be construed to be a statutory instrument.

(9) Subsection 14(1) is repealed and the following is substituted:

Liability

14. (1) No proceedings lie against the president, an employee or any person acting for or on behalf of the Corporation or the president under this Act or the regulations for any act or omission that he or she, acting in good faith, reasonably believed was required or authorized by an enactment.

(10) Subsection 14(3) is amended by striking out "chairperson" and by substituting "president".

(11) Section 14 is further amended by adding the following after subsection (3):

Liability
of former
director

(4) No proceedings lie against a former director of the Corporation or any person acting for or on behalf of the former Board of Directors of the Corporation for any act or omission that he or she, acting in good faith, reasonably believed was required or authorized by an enactment.

(12) Section 15 is amended by striking out "the directors and".

(13) Sections 16 to 18, 21, 22, 29 and 33 are repealed.

(14) The heading preceding section 38 and section 38 are repealed.

Property
Assessment
and Taxation
Act

42. Paragraph 73(2)(f.1) of the *Property Assessment and Taxation Act* is amended by striking out "Northwest Territories Power Corporation" and by substituting "Northwest Territories Power Finance Corporation".

Public
Utilities
Act

43. Section 2 and subsection 40(2) of the *Public Utilities Act* are repealed.

Coming into Force

Coming
into force

44. This Act or any portion of this Act comes into force on a day or days to be fixed by order of the Commissioner.