

TABLED DOCUMENT NO.
TABLED ON

131-88(1)

APR 08 1988

LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES

PUBLIC UTILITIES ACT

Statement of Purpose

The purpose of this Bill is to repeal the present Public Utilities Act and replace it with legislation that allows the Public Utilities Board to approve public utility franchises, review the capital plans of public utilities, approve and amend rates and generally review the conduct of public utilities.

IMPORTANT

This Bill is tabled for public review. This proposed Act does not represent the final policy of the Government of the Northwest Territories and is subject to change after public review and comment. Furthermore, changes of a technical nature can be expected to prepare the Bill for introduction in the Legislative Assembly.

AN ACT RESPECTING PUBLIC UTILITIES ACT

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

Short title	1. This Act may be cited as the <u>Public Utilities Act</u> .	10
Interpretation	2. In this Act,	15
"Board"	"Board" means the Public Utilities Board established by section 3;	15
"capital plan"	"capital plan" means a plan of a public utility showing, for the five years following the year in which the capital plan is filed with the Board, the planned capital expenditures of the public utility that are	20
	(i) identified by the utility as expenditures for the purpose of operating as a public utility, and	25
	(ii) intended by the utility to be included in its rate base in the future;	25
"chairperson"	"chairperson" means the chairperson of the Board;	30
"energy"	"energy" means	
	(a) electricity that is supplied directly to customers,	35
	(b) heat that is supplied directly to customers through a district heating system by hot water, hot air or steam, or	
	(c) manufactured gas, liquified petroleum gas, natural gas, oil or any other combustible material that is supplied through a pipeline or any other fixed distribution system directly to customers;	40



"franchise"	"franchise" means an agreement between a public utility and (a) a municipal council giving the public utility the right to operate within the municipality, or (b) the Minister, giving the public utility the right to operate outside a municipality;	5
"municipal corporation"	municipal corporation" means a municipal corporation as defined in the <u>Cities, Towns and Villages Act</u> , <u>Charter Communities Act</u> or <u>Hamlets Act</u> ;	10
"municipal council"	"municipal council" means the council of a municipal corporation;	15
"municipality"	"municipality" means a municipality as defined in the <u>Cities, Towns and Villages Act</u> , the <u>Charter Communities Act</u> or the <u>Hamlets Act</u> ;	20
"prescribe"	"prescribe" means prescribed by regulation;	25
"public utility"	"public utility" means a person who owns or operates in the Territories a system, equipment, works, plant or facilities for the supply of energy;	30
"settlement"	"settlement" means a settlement as defined in the <u>Settlements Act</u> ;	35
"settlement corporation"	"settlement corporation" means a settlement corporation as defined in the <u>Settlements Act</u> ;	40
"settlement council"	"settlement council" means the council of a settlement corporation;	45

PART I

ADMINISTRATION

Public Utilities Board	3.(1) There shall be a board to be known as the Public Utilities Board.	40
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Composition of Board	(2) The Board consists of (a) five members; and (b) such temporary members, not exceeding six, as may be appointed under paragraph 4(1)(b).	5
Appointment of members	4. The Minister, upon the recommendation of the Executive Council, (a) shall appoint the members of the Board to hold office during pleasure for a term not exceeding five years; and (b) may appoint persons as temporary members for the purpose of dealing with a particular matter before the Board, for a limited period or for such circumstances as may be specified in the appointment.	10 15
Transitional	5. A person holding office as a member of the Public Utilities Board immediately before this Act comes into force shall continue to hold office for the remainder of his or her term, unless the member's appointment is revoked by the Minister.	20
Chairperson	6.(1) The Minister, upon the recommendation of the Executive Council, shall designate a member of the Board to be the chairperson of the Board.	25
Duties	(2) The chairperson shall (a) preside over sittings of the Board; and (b) supervise the staff of the Board.	30
Delegation	(3) The chairperson may delegate any of his or her powers or duties under this Act to another member of the Board.	35
Vice- chairperson	7.(1) The Minister, upon the recommendation of the Executive Council, shall designate a member of the Board to be the vice-chairperson of the Board.	40
Powers and duties	(2) Where the office of the chairperson is vacant or the chairperson is absent or unable to act as chairperson, the vice-chairperson shall perform the duties and may exercise the powers of the chairperson under this Act.	45
Division of Board	8.(1) The chairperson may (a) designate two or more members of the Board to sit as a division of the Board; and (b) direct that division to conduct any proceeding that the Board itself could conduct.	50

Quorum	(2) Two members constitute a quorum at any sitting of a division of the Board.	
Effect of decision or act	(3) A decision or act of a division of the Board is a decision or act of the Board.	5
Powers and duties	(4) A division of the Board has all of the jurisdiction and may exercise and perform the powers and duties of the Board with respect to any proceeding being conducted by the division.	10
Presiding member	(5) The chairperson of the Board may designate a member of a division of the Board to preside over a sitting of the division.	15
Sittings of the Board	9.(1) The Board shall sit at such times and conduct its proceedings in such manner as it considers necessary to perform its duties under this Act.	20
Rules	(2) The Board may make rules respecting its sittings and its procedure.	25
Secretary	10. The Minister shall appoint a member of the public service to be secretary to the Board.	25
Duties of secretary	11. The secretary shall (a) keep a record of all proceedings before the Board or a division of it; (b) have custody of all records and documents belonging to or filed with the Board; and (c) ensure that every rule, order or decision of the Board is signed by the chairperson and filed in the records of the Board.	30
Conflict of interest	12. The <u>Conflict of Interest Act</u> applies to members of the Board.	35
Expenses	13.(1) Every member of the Board is entitled to be reimbursed at the prescribed rates for expenses incurred while the member is away from his or her ordinary place of residence on Board business.	40
Honoraria	(2) The chairperson and members of the Board shall be paid such honoraria as are prescribed for their respective duties.	45
Public service assistance	14.(1) Subject to the <u>Public Service Act</u> , the Board may be assisted in the administration of its affairs by such persons in the public service as the Minister may assign for the purpose.	50

Special assistance	(2) Notwithstanding the <u>Government Contract Regulations</u> , the Board may from time to time engage persons having special or technical knowledge necessary to assist the Board in carrying out its functions.	5
Executive council guidelines	15.(1) The Executive Council may issue policy guidelines to the Board respecting the general performance of its duties.	10
Implementation of guidelines	(2) The Board shall ensure that policy guidelines of the Executive Council are implemented in a prompt and efficient manner.	10
Board expenditures	16. The expenditures of the Board must be made from money appropriated for the purpose by the Legislative Assembly.	15
Annual report	17.(1) The Board shall by March 31 in each year forward to the Minister a report showing the activities of the Board for the previous calendar year.	20
Laying report before Legislative Assembly	(2) The report must be laid before the Legislative Assembly as soon as possible after it is forwarded to the Minister.	25

PART II 30

PUBLIC UTILITY FRANCHISES

Application to Minister	18.(1) A public utility that wishes to operate outside a municipality shall apply to the Minister in a form containing the prescribed information.	35
Grant of franchise	(2) Where an application is made under subsection (1), the Minister may, by order, grant a franchise to the public utility to operate outside a municipality.	40
Franchise	19.(1) No public utility shall operate unless the franchise of the public utility has been approved by the Board.	45
Board order	(2) Where a public utility contravenes subsection (1), the Board may order the public utility to cease operation.	

Filing	20.(1) A public utility shall file with the Board a copy of its franchise no less than six months before the public utility intends to begin operating under the franchise.	5
Idem	(2) Where the Board considers that the circumstances warrant, the Board may permit a public utility to file a copy of its franchise less than six months before the public utility intends to begin operating under the franchise.	10
Amendment	(3) Where the franchise of a public utility is amended, the public utility shall file with the Board a copy of the amended franchise.	15
Review	21.(1) The Board shall review a franchise or an amendment filed under section 20 and may hold a hearing.	20
Board approval	(2) A franchise or an amendment to a franchise is of no effect until approved by the Board.	25
Existing franchises	(3) A public utility franchise approved by the Public Utilities Board before this Act comes into force is deemed to have been approved by the Board under this Act.	30
Approval of franchise	22.(1) At the conclusion of the review referred to in section 21, the Board shall (a) approve the franchise or amendment, with or without conditions; or (b) refuse to approve the franchise or amendment.	35
Idem	(2) Where the Board approves a franchise or amendment, the Board shall state in the approval (a) the form and amount of energy that the public utility is to supply; and (b) the geographic area to which the public utility is to supply energy.	40
Grounds for approval	23. The Board shall approve a franchise or amendment where the Board is satisfied that the public utility is justified having regard to any matter that the Board considers relevant.	45

PART III

CAPITAL PLANS

Filing of capital plan	24.(1) Every public utility shall file with the Board a capital plan, showing the prescribed information, by December 31 of every year.	5
Review	(2) Where a capital plan is filed under subsection (1), the Board shall review the capital plan and, within six months of the date of filing, (a) accept the capital plan; (b) refuse the capital plan; or (c) identify any element of the capital plan as a project that, in the opinion of the Board, requires a project permit.	10 15
Notice	(3) The Board shall notify the public utility of the action taken under subsection (2).	20
Application for permit	25.(1) Where a project is identified under paragraph 24(2)(c), the public utility may apply to the Board for a project permit.	25
Contents of application	(2) An application for a project permit must contain the prescribed information.	25
Hearing	26. Where the Board receives an application for a project permit, the Board may hold a hearing on the application.	30
Grounds for decision	27. In reviewing an application for a project permit the Board shall consider whether the project is justified having regard to any matter that the Board considers relevant, including (a) the impact of the project on rates; (b) the public need for the project; and (c) the reliability of the public utility.	35
Decision on application	28. Where the Board has reviewed an application for a project permit, the Board shall (a) approve the application, with or without conditions; or (b) refuse the application.	40 45
Issuance of permit	29. Where the Board approves an application, the Board shall issue to the applicant a project permit in a form containing the prescribed information.	45

Authority of permit	30.(1) A project permit authorizes the permit holder to proceed with the project in accordance with the terms and conditions of the permit.	
Prohibition	(2) No public utility shall proceed with a project identified under paragraph 24(2)(c), unless the Board issues a project permit to the utility for that project.	5
Cease work order	(3) Where a public utility contravenes subsection (2), the Board may order the public utility to cease work on the project.	10

PART IV 15

JURISDICTION OF THE BOARD

Transitional	31. Any proceeding undertaken by the Public Utilities Board and not completed on the day this Act comes into force shall be continued as if the proceeding had been undertaken by the Board under this Act.	20
Exclusive jurisdiction	32.(1) The Board has exclusive jurisdiction in all cases and for all matters in which jurisdiction is conferred on it by this Act, the regulations or any other enactment.	25
Idem	(2) Unless otherwise provided in this Act, an order, interim order, decision, rule or proceeding of the Board shall not be questioned, reviewed or restrained by or on an application for judicial review or other process or proceeding in any court.	30
Determination final	33. The determination of the Board (a) on a question of fact; or (b) as to whether a person is an interested person within the meaning of this Act, is binding and conclusive on all persons and all courts.	35 40
Powers of the Board	34. The Board may (a) exercise the powers of a board appointed under the <u>Public Inquiries Act</u> ; and (b) order any person to provide information in the possession or control of that person respecting the operation of a public utility.	45

Complaints	35. Where any interested person	
	(a) complains to the Board that a person has contravened or is contravening	
	(i) this Act or the regulations,	5
	(ii) a project permit issued by the Board,	
	(iii) a franchise approved by the Board, or	
	(iv) an order, decision or rule of the Board; or	
	(b) requests the Board to direct, approve, require or prohibit anything over which the Board has jurisdiction under this Act,	10
	the Board has jurisdiction to determine the matter and may decide	
	(c) whether to hold an inquiry or hearing; and	
	(d) whether to take any other action.	15
Relief	36.(1) In a proceeding under this Act, the Board may	
	(a) grant all or part of the relief requested; or	20
	(b) grant further or other relief as the Board considers advisable.	
Complaints without merit	(2) The Board may refuse to take any action on a complaint that it considers frivolous, vexatious or without merit.	25
Costs of proceedings	37. The costs incidental to a proceeding before the Board or any investigation or review made by the Board, including intervenor costs, are in the discretion of the Board and it may order by whom, to whom and in what amount the costs are to be paid.	30
Hearings	38. Where the Board has jurisdiction under this Act to hold a hearing, the Board may hold the hearing on its own motion.	35
Variation or rehearing	39.(1) The Board may reconsider, vary or rescind a decision, order or rule made by it and may rehear an application before deciding it.	40
Idem	(2) Where an order, decision or rule is made by the Board after a hearing, the order, decision or rule shall not be suspended, revoked or substantially altered without a hearing.	45
Direction of Minister	40.(1) The Minister may direct the Board	
	(a) to inquire into or to hold a hearing on any matter over which the Board has jurisdiction under this Act; and	50
	(b) to advise the Minister of its findings.	

Compliance	(2) The Board shall obey a direction of the Minister given under subsection (1).	
Public hearings	41.(1) Where a hearing is held by the Board under this Act, the Board shall decide whether a public hearing is in the public interest.	5
Idem	(2) Notwithstanding subsection (1), where the Minister directs the Board to hold a hearing under this Act, the Minister shall decide whether a public hearing is in the public interest.	10
Written reasons	42.(1) Where the Board holds a hearing, the Board shall prepare written reasons for its decision and provide copies to the parties to the hearing.	15
Confidentiality	(2) Notwithstanding subsection (1), no advice or report given by the Board to the Minister shall be disclosed, except by order of the Minister.	20
Notice of hearings	43. Where the Board is directed or authorized under this Act to hold a hearing, it shall give reasonable notice of the hearing, but no act or decision of the Board shall be questioned or held invalid on the grounds that insufficient notice has been given to any person.	25
Service of notice	44.(1) Where this Act, the regulations or rules made under this Act require or empower the Board to give notice to a person, the notice must be in writing and may be served either personally or by mailing it to the person's address.	30
Idem	(2) Where a notice is mailed, service of the notice shall be deemed to be effected within 14 days of the date of mailing.	35
Mandatory and restraining orders	45. The Board may order a person (a) to do anything that the person may be required or authorized to do under this Act or the regulations; or (b) to stop or refrain from doing anything that may be forbidden or restrained under this Act or the regulations or anything that is in contravention of this Act, the regulations or an order, decision or rule of the Board.	40 45
Orders without notice	46.(1) Where the Board (a) is authorized under this Act to make a decision or order; and	50

	(b) is of the opinion that the special circumstances of the case warrant waiving any requirement for notice, the Board may make the decision or order as if proper notice had been given to all parties.	5
Application to Board	(2) An interested person may, within 10 days of becoming aware of a decision or order made under subsection (1), apply to the Board to vary or rescind the decision or order.	10
Rehearing	(3) Where an application is made under subsection (2), the Board may, on notice to interested persons, hear the application and (a) vary or rescind the decision or order; or (b) dismiss the application.	15
Interim orders	47.(1) The Board may make an interim order.	20
Orders without notice	(2) Where in the opinion of the Board the special circumstances of a case warrant waiving any requirement for notice, the Board may make an interim order as if proper notice had been given to all parties.	25
Idem	(3) The Board shall not make an interim order under subsection (2) for a longer time than it considers necessary to make a final decision.	30
Application	(4) An interested person may, before a final decision is made, apply to the Board to vary or rescind an interim order made under this section.	35
Filing of order	48.(1) The secretary of the Board shall file a certified copy of a decision or order of the Board with the Clerk of the Supreme Court.	40
Enforcement	(2) A decision or order that is filed under subsection (1) may be enforced in the same manner as an order of the Supreme Court.	45
Default	49.(1) Where a person defaults in doing anything directed by an order of the Board, the Board may authorize another person to do the thing.	50
Expense	(2) The Board may order the person in default to pay to the person authorized in subsection (1) the expense incurred by that person in acting under the authority of subsection (1) and the statement in the order of the amount expended is conclusive evidence of the amount.	

Coming into force	50. The Board may direct that an order, decision or rule made by the Board or any part of the order, decision or rule shall come into force (a) at a future time; (b) on the happening of an event specified in the order, decision or rule; or (c) on the performance of a term in the order, decision or rule.	5
Extension of time	51. Where the Board orders or directs that any act or thing is to be performed or completed within a specified time, the Board may extend the time for doing the act or thing, where the Board is of the opinion that the circumstances warrant the extension.	10 15
Evidence	52. The Board may accept and act on evidence by affidavit, written statement, the report of any of its members, employees, officers or agents or on evidence obtained in any other manner that the Board considers sufficient.	20
Idem	53. A copy of a document in the custody of the secretary of the Board, purporting to be certified by the secretary to be a true copy, is evidence of the document without proof of the signature.	25
Idem	54. A certificate purporting to be signed by the secretary of the Board stating that no order, decision or rule on a specified matter has been made by the Board is evidence of the fact stated without proof of the signature.	30
Substantial compliance	55. Substantial compliance with this Act is sufficient to give effect to the orders, decisions, rules and acts of the Board and none of them shall be declared inoperative, illegal or void for want of form or an error or omission of a technical or clerical nature.	35 40
Liability	56. A proceeding shall not be brought against the Board or a member, employee, officer or agent of the Board for anything done in good faith in the performance or intended performance of a duty imposed or a power conferred by this Act.	45

PART V

SUPERVISION OF PUBLIC UTILITIES

General

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Review of
public
utilities

57. The Board shall every three years and may at any other time review the conduct of each public utility.

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Cancellation

58. Where, after a hearing, the Board finds that the holder of a project permit or public utility franchise

(a) has not exercised or has not continued to exercise the rights granted by the permit or franchise; or

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(b) has acted in contravention of

(i) the permit or franchise,
(ii) this Act or the regulations, or

(iii) an order, rule or decision of the Board directed to the holder,

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the Board may, by order,

(c) suspend a right granted by the permit or franchise; or

(d) suspend or cancel the permit or franchise.

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Extension
of service

59.(1) Where, after a hearing, the Board finds that

(a) an extension of the existing services of a public utility, in an area that the utility may properly be considered responsible for developing, is feasible and required in the public interest; and

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(b) the construction and maintenance of the extension will not require a substantial increase in rates or decrease in services provided by the public utility elsewhere,

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the Board may order the public utility to make the extension.

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Terms

(2) Where the Board makes an order for the extension of service, the Board may attach to the order terms and conditions, including a requirement that the persons benefited by the order pay all or some of the costs of the extension.

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Improved
service

60. Where, after a hearing, the Board finds that the service of a public utility is unreasonable, unsafe, inadequate or unreasonably discriminatory, the Board shall determine what is reasonable, safe, adequate or fair service and order the utility to provide it.

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Filing conditions of service	61.(1) A public utility shall file with the Board a copy of its conditions of service.	
Amendment	(2) Where a public utility amends its conditions of service, it shall file with the Board an amended copy of its conditions of service.	5
Board approval	(3) No conditions of service or amendment to conditions of service is of any effect until approved by the Board.	10
Joint use of public area	62. Where, after a hearing, the Board finds that	
	(a) a public utility has the right to enter a municipality or settlement to place its equipment on, along, across, over or under any public area owned by the municipal or settlement corporation; or	15
	(b) a public utility cannot extend its system, line or apparatus between two places where it is authorized to operate, without	20
	(i) placing its distribution equipment on, along, across, over or under a public area owned by a municipal or settlement corporation; or	25
	(ii) making expenditures that the Board considers unreasonable,	
	but the public utility cannot agree with the municipal or settlement council on the use of the public area or on the terms of use, the Board may, by order,	30
	(c) require the municipal or settlement council to allow the public utility to use the public area, where this can be done without unduly preventing other persons from using the public area; or	35
	(d) fix the terms of use by the public utility.	
Joint use of equipment	63.(1) Where, after a hearing, the Board finds that	
	(a) public convenience or necessity requires that a public utility use equipment owned by another public utility or a municipal or settlement corporation; and	40
	(b) the use will not prevent the owner or other users from performing their duties or result in any substantial detriment to their service,	45
	but the utility cannot agree with the owner on the use of the equipment or on the terms of use, the Board may, by order,	50
	(c) require the owner to allow the utility to use the equipment; or	

	(d) fix the terms of use by the utility.	
Costs	(2) In an order referred to in subsection (1), the Board may	
	(a) order that the cost of carrying out the order is to be borne by one of the parties;	5
	or	
	(b) apportion the cost between the two.	
Work order	64. Where the Board orders work to be undertaken, the Board may direct	10
	(a) by what interested person;	
	(b) at whose cost and expense;	
	(c) within what time;	
	(d) on what terms; and	15
	(e) under whose supervision, the work is to be done.	
Standards	65. The Board may, after a hearing,	
	(a) determine and fix just and reasonable standards, classifications, regulations, practices or service to be used by a public utility;	20
	(b) determine and fix adequate and reasonable standards for measuring quantity, quality or other conditions of supplying service;	25
	(c) make reasonable regulations for examining, testing or measuring a service;	
	(d) establish or approve reasonable standards for accuracy of meters and other measurement appliances; or	30
	(e) provide for the examination and testing of appliances used to measure a service of a utility.	
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Rules	66. The Board may make rules respecting	
	(a) the extension of service by a public utility;	
	(b) the filing of franchises, capital plans, conditions of service or rate schedules;	40
	(c) reporting to the Board by public utilities;	
	(d) the conditions to be contained in the conditions of service of public utilities;	
	or	
	(e) any other matter it considers necessary or advisable for	45
	(i) the safety, convenience or service of the public;	

- (ii) the proper carrying out of this Act or the regulations; or
- (iii) for the proper carrying out by a public utility of a contract or franchise involving use of public property or rights. 5

Rates

Filing of rate schedules	67.(1) The Board shall make rules requiring every public utility to file a schedule showing all rates established by the public utility and collected, charged or enforced or to be collected, charged or enforced by the utility.	10 15
Compliance	(2) Every public utility shall comply with the rules made under subsection (1).	
Prohibition	(3) A public utility shall not collect, charge or enforce rates other than the rates shown in the schedule filed by the public utility and approved by the Board in accordance with this Act.	20
Application	(4) A public utility, municipal or settlement council or interested person may apply to the Board to amend a schedule filed under this section.	25
Review	68.(1) Where a rate schedule is filed under subsection 67(2), the Board shall review the schedule and may <ul style="list-style-type: none"> (a) approve the schedule; (b) refuse to approve the schedule; or (c) order the public utility to amend the schedule in accordance with rates fixed by the Board. 	30 35
Notice	(2) The Board shall notify the public utility of the action taken under subsection (1).	40
Change in rates	(3) Where an application is made under subsection 67(4), the Board may, after a hearing, order the public utility to amend its schedule in accordance with rates fixed by the Board.	45
Amendment of schedule	69. A public utility that is ordered to amend its schedule shall do so in conformity with the order and shall file the amended schedule with the Board.	

Available to public	70. A public utility shall keep a copy of the schedules filed under section 67 or 69 open to and available for public inspection during regular business hours.	5
Discrimination in rates	71.(1) A public utility shall not (a) make, demand or receive (i) an unreasonable, unduly discriminatory or unduly preferential rate for a service furnished by it, or (ii) a rate that otherwise contravenes this Act, the regulations, another enactment or an order of the Board; (b) subject any person or community to an undue prejudice or disadvantage in respect of rates or services; or (c) extend to any person a form of agreement, facility or privilege, unless the agreement, facility or privilege is regularly and uniformly extended to all persons for service of the same description in substantially similar circumstances.	10 15 20
Question of fact	(2) It is a question of fact, of which the Board is the sole judge, whether (a) a rate is unjust or unreasonable; (b) there is undue discrimination, preference, prejudice or disadvantage in respect of a rate or service; or (c) a service is offered or furnished under substantially similar circumstances.	25 30
Rate base	72.(1) In fixing just and reasonable rates, the Board shall determine a rate base for the property that a public utility has prudently acquired to provide service to the public within the Territories.	35
Idem	(2) In determining a rate base, the Board shall consider (a) the cost to the public utility of the property referred to in subsection (1) at the time that property was first devoted to public use, less depreciation, amortization or depletion; and (b) the necessary working capital of the public utility.	40 45
Fair return	(3) The Board shall fix a fair return on the rate base of a public utility.	50

Fixing rates

73. In fixing just and reasonable rates to be charged by a public utility,
(a) the Board may consider
 (i) all revenues and costs of the public utility, 5
 (ii) any excess revenue received or any revenue deficiency incurred by the public utility, and
 (iii) any costs that the public utility is required to pay under section 37; 10
(b) the Board shall not consider the cost to the public utility of any franchise tax or fee charged by a municipal or settlement council; and
(c) the Board shall approve the method by which, and the period during which any excess revenue received or any revenue deficiency incurred by the public utility is to be used or dealt with in the future. 15

Contracts

74. Where, after a hearing, the Board finds that, under a contract entered into with a public utility, a person receives a regulated service at rates that are unduly preferential or discriminatory, the Board may 20
(a) declare the contract unenforceable, either wholly or to the extent the Board considers reasonable; or 25
(b) make any other order the Board considers advisable in the circumstances. 30

Duties of Public Utilities

Discontinuance or extension of service

75. Where the Board has approved the franchise of a public utility, the public utility shall not discontinue or extend its operation under the franchise without first obtaining the permission of the Board. 35

Restraint on borrowing

76.(1) A public utility shall not issue a security or other evidence of indebtedness payable more than one year from its date, without first applying to the Board for approval. 40

Approval

(2) Where the Board approves of the purpose of the proposed issue referred to in subsection (1) and is satisfied that it is to be made in accordance with every enactment governing the issue of securities, the Board may approve the proposed issue and may attach terms and conditions to the approval. 45 50

Restriction	<p>(3) A public utility</p> <p>(a) shall not make a material alteration in the characteristics of its securities or other evidence of indebtedness as described in the Board's approval given under subsection (2); or</p> <p>(b) where the utility has issued a security or other evidence of indebtedness payable more than one year from its date, shall not</p> <p style="padding-left: 40px;">(i) increase a fixed dividend or interest rate or extend a maturity date for the issue,</p> <p style="padding-left: 40px;">(ii) restrict the utility's right to redeem the issue, or</p> <p style="padding-left: 40px;">(iii) increase the premium to be paid on redemption,</p> <p>without first obtaining the approval of the Board.</p>	<p>5</p> <p>10</p> <p>15</p>
Restraint on disposition	<p>77. Except for a disposition of its property in the ordinary course of business, a public utility shall not, without first obtaining the approval of the Board,</p> <p style="padding-left: 40px;">(a) dispose of or encumber the whole or a part of its property, franchises, permits, privileges or rights; or</p> <p style="padding-left: 40px;">(b) by any means, direct or indirect, merge, amalgamate or consolidate in whole or in part its property, franchises, permits, privileges or rights with those of another person.</p>	<p>20</p> <p>25</p> <p>30</p>
Restraint on merger	<p>78. Without first obtaining the approval of the Board, a public utility shall not consolidate, amalgamate or merge with another person.</p>	<p>35</p>
Restraint on share issue	<p>79. Without first obtaining the approval of the Board, a public utility shall not issue or sell or make on its books a transfer of shares in the capital of the utility to a person, where the result of the issue, sale or transfer, in itself or with previous issues, sales or transfers, is to vest in the person a majority interest in the utility's outstanding share capital.</p>	<p>40</p>
Contravention	<p>80. Where a public utility acts in contravention of sections 76 to 79, the issue of securities or other evidence of indebtedness, disposition of property, consolidation, amalgamation, merger, or issue or sale of shares is void.</p>	<p>45</p>

Reserve fund	81. The Board may, by order, (a) require a public utility to create and maintain a reserve fund for any purpose the Board considers proper; and (b) fix the amount or rate to be charged each year in the accounts of the utility for the purpose of creating the reserve fund.	5
Duty to obey orders	82. Every public utility shall obey any order, decision or rule made by the Board under this Act with respect to that public utility and shall do all things necessary to ensure that its officers, agents and employees obey those orders.	10
Idem	83. (1) Where a person is appointed or authorized by a court in the Territories to (a) act as a liquidator or receiver of a public utility; or (b) seize property belonging to a public utility, that person shall act in accordance with this Act, the regulations and any order, decision or rule of the Board directed to that person or to the public utility.	15 20
Enforcement	(2) The Board may enforce its orders against a person referred to in subsection (1).	25
Duty to provide information	84. (1) Every public utility shall furnish to the Board information required by the Board under this Act and shall answer all questions asked by the Board under this Act.	30
Idem	(2) Every public utility that receives from the Board any form of return shall fully and correctly answer each question in the return and deliver it to the Board by the date specified on the return.	35
Idem	(3) On request by the Board, a public utility shall deliver to the Board (a) all profiles, contracts, reports, accounts and records in its possession or control relating in any way to its property or service or affecting its operation, or verified copies of them; and (b) complete inventories, in the form the Board directs, of the utility's property.	40 45

Idem	<p>(4) A public utility shall</p> <p>(a) by March 31 of every year file with the Board a statement in writing setting out the name, title of office, post office address, authority, powers and duties of</p> <p style="padding-left: 40px;">(i) every member of the board of directors of the utility,</p> <p style="padding-left: 40px;">(ii) every member of the executive committee of the utility, and</p> <p style="padding-left: 40px;">(iii) every other officer of the utility; and</p> <p>(b) on request by the Board, file with the Board a statement in writing disclosing the authority for any administrative act, rule, decision, order or other action of the utility specified by the Board.</p>	<p>5</p> <p>10</p> <p>15</p>
Duty to keep records	<p>85.(1) Every public utility shall maintain an office in the Territories in which it shall keep all accounts and records required by the Board to be kept in the Territories.</p>	<p>20</p>
Removal of records	<p>(2) A public utility shall not remove or permit to be removed from the Territories an account or record kept under subsection (1) except with the permission of the Board.</p>	<p>25</p>
Accounts and reports	<p>86. The Board may order every public utility</p> <p>(a) to keep such records and accounts as the Board may require and, for public utilities of the same class, to adopt a uniform system of accounting established by the Board;</p> <p>(b) to furnish, at the times and in the form and manner required by the Board, a detailed report of finances and operations, verified as required by the Board; or</p> <p>(c) to file with the Board, within the times and in the form and manner required by the Board, a report of</p> <p style="padding-left: 40px;">(i) every interruption of service of the public utility, and</p> <p style="padding-left: 40px;">(ii) every accident occurring to or on the plant, equipment or other property of the utility, where the accident might endanger the safety, health or property of any person.</p>	<p>30</p> <p>35</p> <p>40</p> <p>45</p>

Effect of
other
legislation

87. Nothing in, or done under the Cities, Towns and Villages Act, the Charter Communities Act, the Hamlets Act or the Settlements Act supersedes or impairs a power conferred on the Board or a public utility or relieves a person of an obligation imposed by or under this Act. 5

PART VI

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APPEALS

Appeal

88.(1) A person affected by an order, decision or rule of the Board may apply to the Supreme Court within 30 days after the order, decision or rule was made for leave to appeal on a question of law or excess of jurisdiction. 15

Extension
of time

(2) The Supreme Court may extend the time period referred to in subsection (1). 20

Notice

(3) A person who applies for leave to appeal shall give written notice of the application, stating the grounds of appeal, to
(a) the Board; and 25
(b) any person who is adverse in interest,
at least 10 days before the hearing of the application.

Discretion
of court

(4) The granting of leave to appeal and the costs of the application are in the discretion of the Supreme Court. 30

Notice

89. Where leave to appeal is granted, the appellant shall give written notice of appeal to
(a) the Board; and 35
(b) any person who is adverse in interest,
within 20 days from the day on which leave was granted. 40

Service of
notice

90.(1) Where notice is required to be given under this Part, the notice may be served either personally or by mailing it to the address of the person served. 45

Idem

(2) Where a notice is mailed, service of the notice shall be deemed to be effected within 14 days of the date of mailing. 45

Costs	91. Neither the Board nor any member, officer, employee or agent of the Board is liable for costs in respect of an application or appeal to the Supreme Court.	5
Stay	92.(1) An appeal to the Supreme Court does not of itself stay or suspend the operation of the decision, order or rule appealed from, but the Supreme Court may grant a stay or suspension, in whole or in part on the terms the court considers reasonable, until the appeal is decided.	10
Idem	(2) The Board may, in its discretion, stay or suspend the operation of a decision, order or rule that is being appealed to the Supreme Court, until the appeal is decided.	15
Stated case	93.(1) The Board (a) may, of its own motion or on the application of a person who gives the security required by the Board; and (b) shall, on the direction of the Minister, state a case in writing for the Supreme Court on a question that, in the opinion of the Board or the Minister is a question of law.	20 25
Idem	(2) Where a case is stated under subsection (1), the Supreme Court shall hear and determine all questions of law arising out of the stated case.	30
Determination binding	(3) The determination of the Supreme Court is binding on the Board and all parties.	
Court of Appeal	94. A person offered by affected by a decision made by the Supreme Court under this Act may apply to the Court of Appeal for leave to appeal on a question of law or excess of jurisdiction.	35

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PART VII

OFFENCES AND PUNISHMENT

Offences	95.(1) No person shall (a) fail or refuse to obey an order, decision or rule made by the Board under this Act that is directed to that person;	45
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- (b) fail or refuse to prepare and furnish to the Board, in the time, manner and form and with the particulars and verification required under this Act,
 - (i) a return required by the Board, 5
 - (ii) the answer to a question asked by the Board, or
 - (iii) other information required by the Board under this Act;
- (c) wilfully or negligently make a false return or furnish false information to the Board; 10
- (d) give to an officer, manager, employee or agent of a public utility a direction or request to do or refrain from doing an act that contravenes this Act, the regulations or an order, decision or rule made by the Board under this Act; 15
- (e) after proper demand under this Act, fail or refuse to exhibit to the Board or a person authorized by the Board an account, record or memorandum of the public utility that is in the person's possession or control; 20
- (f) obstruct or interfere with a member, officer, employee or agent of the Board in the exercise of rights conferred or duties imposed under this Act; 25
- (g) knowingly solicit or receive, directly or indirectly, a rebate, concession or preference for service of a public utility where the service is furnished or received in contravention of this Act; or 30
- (h) without obtaining the prior approval of the Board, knowingly publish or disclose information obtained or evidence taken by the Board under this Act, other than during a public inquiry or public hearing. 35

Exception

(2) Paragraph (1)(e) does not apply where the person making the demand does not, on request, produce a certificate of his or her appointment or authority. 40

Responsibility for employees

96. For the purposes of this Act or the regulations or an order, decision or rule made by the Board under this Act, every person is responsible for the acts or omissions of his or her employees or agents within the scope of their actual or apparent authority. 45

Duty of director, officer	97.(1) Every director or officer of a public utility that engages in an activity that may result in a contravention of this Act, the regulations or an order, decision or rule of the Board has a duty to take all reasonable care to prevent the public utility from causing or permitting the contravention.	5
Offence	(2) Every person who has a duty under subsection (1) and who fails to carry out that duty is guilty of an offence.	10
Idem	(3) A director or officer of a public utility is liable to conviction under this section whether or not the public utility has been prosecuted or convicted.	15
Punishment	98. Every person who contravenes (a) a provision of this Act or the regulations; (b) a term or condition attached by the Board to a project permit or to the approval of a public utility franchise; or (c) an order, decision or rule of the Board, is guilty of an offence and is liable on summary conviction to a fine not less than \$200 or, where the person is an individual, to imprisonment for a term not exceeding six months.	20 25
Continuing offence	99. Where this Act makes anything an offence, every day the offence continues constitutes a separate offence.	30
Effect of punishment	100. No punishment enforceable under this Act (a) bars or affects recovery for a right; or (b) affects or bars a proceeding against or prosecution of a public utility, its directors, officers, agents or employees.	35

PART VIII 40

REGULATIONS

Regulations	101. The Commissioner, on the recommendation of the Minister, may make regulations (a) prescribing the rates referred to in subsection 13(1); (b) prescribing the honoraria referred to in subsection 13(2); (c) prescribing the information to be included in an application for a franchise made under subsection 18(1);	45 50
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- (d) prescribing the information to be included in a capital plan;
- (e) prescribing the information to be contained in an application for a project permit;
- (f) prescribing the information to be contained in a project permit; 5
- (g) respecting conditions of service; or
- (h) respecting any matter that the Commissioner considers necessary or advisable to carry out the intent or purpose of this Act. 10

PART IX

REPEAL 15

Repeal 102. The Public Utilities Act, R.S.N.W.T. 1974, c.P-17 is repealed.

PART X 20

COMING INTO FORCE

Coming into force 103. This Act shall apply to the Northwest Territories Power Corporation on October 1, 1989. 25