

2013

CHAPTER 25

*An Act to amend *The Power Corporation Act**

(Assented to May 15, 2013)

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

Short title

1 This Act may be cited as *The Power Corporation Amendment Act, 2013*.

R.S.S. 1978, c.P-19 amended

2 *The Power Corporation Act* is amended in the manner set forth in this Act.

Section 3 amended

3 The following subsections are added after subsection 3(2.1):

“(2.2) The corporation is not liable in an action based on nuisance, or on any other tort that does not require a finding of intention or negligence, for any loss or damage arising, directly or indirectly, from:

(a) its land, buildings, machinery, plant or other works, including any of its transmission and distribution lines, apparatus, equipment or other facilities; or

(b) its operation or non-operation as a public utility.

“(2.3) No action or proceeding lies or shall be commenced against the minister, any member of the corporation, any officer or employee of the corporation or any person authorized by the corporation, if that person is acting pursuant to the authority of this Act or the regulations, for anything in good faith done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order made pursuant to this Act or the regulations or any duty imposed by this Act or the regulations”.

Section 8.2 amended

4 Clause 8.2(2)(a) is amended in the portion preceding subclause (i) by striking out “standards for the design and operation of” and substituting “design, operation or reliability standards for”.

Section 8.3 amended

5(1) Subsection 8.3(1) is amended by adding “or agent” after “employee”.

(2) Subsection 8.3(2) is amended by adding “or agent” after “employee”.

(3) The following subsections are added after subsection 8.3(2):

“(2.1) Subject to subsection (2.2), the corporation may, at any reasonable time and if reasonably required for a purpose relating to monitoring or requiring compliance with the reliability standards established, adopted or incorporated by reference pursuant to section 8.2 or relating to a disconnection pursuant to subsection (4):

(a) enter land or premises and carry out an inspection, audit, investigation or disconnection; and

(b) require any person to produce any relevant record and inspect or copy that record.

“(2.2) The corporation shall not enter any premises that are a private dwelling without the consent of the occupier”.

(4) Subsection 8.3(4) is repealed and the following substituted:

“(4) In the circumstances mentioned in subsection (3), the corporation may, in addition to any other rights or remedies available to it and notwithstanding the terms of any agreement between the corporation and the person:

(a) refuse to transmit or distribute electrical energy to or on behalf of the person;

(b) disconnect its transmission and distribution lines from the lines or facilities of the person;

(c) take any action it considers reasonably required to bring the facilities of a person into compliance with the standards established, adopted or incorporated by reference pursuant to section 8.2; or

(d) take any action, in addition to those mentioned in clauses (a) to (c), that it considers necessary.

“(4.1) If the corporation takes any action pursuant to clause (4)(c), the costs of taking that action are a debt due and owing by the person to the corporation, and the corporation may recover those costs from that person in any manner authorized by this Act or in any manner that is allowed by law for the recovery of debts due to the Crown”.

New section 8.4**6 The following section is added after section 8.3:****“Market activities**

8.4(1) In this section:

(a) **‘designated corporation’** means:

(i) a body corporate, other than a Crown corporation, in which the corporation, directly or indirectly, holds securities, other than by way of security only, to which are attached votes that may be cast to elect a director; and

(ii) a Crown corporation designated by the Lieutenant Governor in Council;

(b) **‘market activities’** means issuing, executing, trading, dealing with or entering into any or all of the following:

- (i) agreements to sell or purchase electrical energy or the transmission of electrical energy;
- (ii) agreements to sell or purchase natural gas and agreements to sell, purchase, or transmit carbon dioxide or gas derived from power generation;
- (iii) electrical energy or natural gas swaps or electrical energy or natural gas transmission swaps;
- (iv) electrical energy or natural gas futures agreements or electrical energy or natural gas transmission futures agreements;
- (v) agreements to sell or purchase an option on electrical energy or natural gas or the transmission of electrical energy or natural gas;
- (vi) agreements to sell or purchase an option on swaps or futures on electrical energy or natural gas or the transmission of them;
- (vii) agreements, rights or other benefits related to carbon emissions, greenhouse gases or other air emissions;
- (viii) any other instruments that may be designated by the Lieutenant Governor in Council.

(2) In addition to any other powers conferred by any other Act respecting capital market activities and without limiting the generality of section 8, the corporation may, directly or through a designated corporation, do any of the following:

- (a) engage in any market activities;
- (b) guarantee the payment of any indebtedness and the performance of any obligation of a designated corporation respecting market activities on those terms and conditions that the corporation considers desirable or that the Lieutenant Governor in Council may direct.

(3) The corporation is at all times to have access to the books, records, documents and any other materials of a designated corporation, and the corporation may require that designated corporation to produce, at all reasonable times, those books, records, documents and other materials, if the designated corporation:

- (a) is a Crown corporation; or
- (b) is a body corporate in which the corporation, directly or indirectly, has an ownership interest.

(4) Subject to subsection (5), if the corporation engages in market activities either directly or through a designated corporation, the corporation may do all those things it considers necessary, incidental or conducive to engaging in market activities.

(5) The Lieutenant Governor in Council may impose any restrictions or limitations that the Lieutenant Governor in Council considers appropriate on the corporation's power to engage in market activities".

Section 10 amended

7 Subsection 10(3) is repealed and the following substituted:

"(3) Where the purchase price or sale price of real property included in one transaction entered into by the corporation exceeds the amount fixed by the Lieutenant Governor in Council, the corporation shall obtain the approval of the Lieutenant Governor in Council before the purchase or sale".

New section 14

8 Section 14 is repealed and the following substituted:

"Power to expropriate

14(1) Subject to subsection (2), the Lieutenant Governor in Council may authorize the corporation, without the consent of the owner of or of any person interested in the following, to enter on, take possession of, expropriate and use all or any of the following that, in the opinion of the Lieutenant Governor in Council, are necessary for the purposes of the corporation:

- (a) any land;
- (b) any buildings, plant, machinery, apparatus or equipment.

(2) The authorization of the Lieutenant Governor in Council is not required pursuant to subsection (1) with respect to land if:

- (a) the land is to be expropriated by the corporation and is required:
 - (i) solely for the purposes of a power line, with or without substations, or a pipeline, with or without pumping stations; or
 - (ii) for the purposes of protection cable, control cable and communication cable to be used underground in conjunction with a power line; or
- (b) the corporation considers it advisable to take an easement on the land for the purposes mentioned in clause (a).

(3) If the corporation expropriates any interest that is capable of registration in the Land Titles Registry, the expropriation must be effected in accordance with:

- (a) *The Expropriation Procedure Act*; and
- (b) any additional requirements set out in Part III.

(4) If the corporation expropriates any interest that is not capable of registration in the Land Titles Registry, the expropriation must be effected in accordance with this Part".

Section 15 amended

9(1) Subsection 15(1) is repealed and the following substituted:

“(1) The corporation may apply to a judge of the Court of Queen’s Bench for an order vesting in the corporation all or any of the following to be expropriated pursuant to this Part:

- (a) the land;
- (b) any buildings, plant, machinery, apparatus or equipment;
- (c) any other property that the corporation intends to expropriate, including easements and other rights that may have been acquired in or over the land mentioned in clause (a)”.

(2) Subsections 15(4) and (5) are repealed and the following substituted:

“(4) The judge to whom an application for a vesting order is made shall make the vesting order applied for on the production to the judge of:

- (a) a certificate of the chairperson, vice-chairperson or president of the corporation stating that the property included in the application is required for the purposes of this Act;
- (b) a sufficient description of the property as required by subsection (2);
- (c) a copy of a minute of a meeting of the corporation authorizing the taking of the property that is the subject of the application, certified to be a true copy by the secretary of the corporation; and
- (d) a copy of the order, if any, of the Lieutenant Governor in Council required pursuant to section 14, certified to be a true copy by the Clerk of the Executive Council.

“(5) An order made pursuant to subsection (4) is conclusively deemed to have the effect of divesting all persons other than the Crown of any interest in the property expropriated, but the right and title to mines and minerals that may be found to exist under any land included in the order does not pass to the corporation pursuant to the order”.

Section 23 amended

10 Subsection 23(1) is amended:

- (a) by striking out “pipe lines” and substituting “pipelines”; and
- (b) by striking out “referred to as ‘pipe lines’ ” and substituting “referred to as ‘pipelines’ ”.

Section 24 amended

11(1) Subsection 24(1) is amended by striking out “pipe lines” and substituting “pipelines”.

(2) Subsection 24(2) is amended by striking out “pipe lines” and substituting “pipelines”.

(3) Subsection 24(3) is amended by striking out “pipe lines” wherever it appears and in each case substituting “pipelines”.

Section 29 amended

12 Section 29 is amended by striking out “or pipe lines” and substituting “, poles, structures, wires, conduits or pipelines”.

Section 30.1 repealed

13 Section 30.1 is repealed.

Section 30.2 amended

14 Subsection 30.2(1) is repealed.

Section 31 amended

15(1) Subsection 31(1) is amended by striking out “clause 9(d) of *The Department of Highways and Transportation Act*” and substituting “clause 4(1)(e) of *The Highways and Transportation Act, 1997*”.

(2) Subsection 31(2) is amended by striking out “pipe line” wherever it appears and in each case substituting “pipeline”.

Section 32 amended

16 Subsection 32(2) is amended by striking out “pipe line” and substituting “pipeline”.

New sections 33 and 33.1

17 Section 33 is repealed and the following substituted:

“Powers re lands adjoining power lines

33(1) In this section:

- (a) **‘pipeline’** means a pipeline within the meaning of Part III;
- (b) **‘power line’** means a power line within the meaning of Part III;
- (c) **‘right of way’** means a right of way acquired by the corporation for the purposes of its power lines, poles, structures, wires, conduits or pipelines.

(2) The corporation may enter on any land on either side of its power lines, poles, structures, wires, conduits or pipelines or any of its rights of way, for the purposes of:

- (a) doing anything necessary for the construction, operation, maintenance, repair or replacement of any power line or part of a power line, pole, structure, wire, conduit or pipeline; or
- (b) trimming or removing any trees or shrubs or removing other obstructions to the extent that, in the opinion of the corporation, is necessary to protect its power lines and any cross arms, wires or other attachments to power poles.

(3) Any cross arms, wires or other attachments to power poles may project over any land adjoining a highway, road allowance, road, street, lane or other public place vested in the Crown.

(4) In the trimming of a tree or shrub pursuant to clause (2)(b), every care is to be taken to ensure that no damage is done to the tree or shrub other than damage that is unavoidable.

(5) The owner of land described in subsection (2) is not entitled to compensation with respect to the trimming or removal of a tree or shrub or the removal of an obstruction, and the owner of land described in subsection (3) is not entitled to compensation with respect to the overhanging of a cross arm, wire or other attachment to a power pole.

“Corporation’s rights continue

33.1 Every person who purchases or otherwise acquires any lands that are subject to any of the corporation’s rights set out in sections 31 to 33 acquires those lands subject to the corporation’s rights”.

Section 43 amended

18(1) Subsection 43(1) is amended by striking out “\$5,000,000,000” and substituting “\$8,000,000,000”.

(2) Subsection 43(2) is amended by striking out “*The Financial Administration Act*” and substituting “*The Financial Administration Act, 1993*”.

New sections 59.01 and 59.02

19 Section 59.01 is repealed and the following substituted:

“Relocation easement

59.01(1) If, in the opinion of the corporation, it is necessary to relocate a distribution line in order to remedy an emergency or hazardous condition as described in subsection 59(2):

- (a) section 30.2 applies, with any necessary modification, to any lands that the corporation requires to relocate the distribution line and to maintain, inspect, replace or remove the relocated distribution line; and
- (b) the owners of any lands mentioned in clause (a) are deemed to have given permission pursuant to clause 30.2(3)(b) for the purposes of this section.

(2) If, in the opinion of the corporation, it is necessary to relocate a transmission line in order to remedy an emergency or hazardous condition as described in subsection 59(2) and the corporation is unable to acquire an easement from the registered owner of, or any other person interested in, the lands that would allow the corporation to relocate the transmission line:

- (a) the corporation shall, in accordance with section 26, give notice to the registered owner of the required lands; and
- (b) until the corporation acquires an easement, the corporation may enter on any lands required for the relocation of the transmission line and use and occupy those lands to maintain, inspect, replace or remove the relocated transmission line.

“Emergency powers re delivery of electrical energy

59.02(1) In this section, **‘power emergency’** means an emergency by reason of:

- (a) damage to, or destruction, failure or breakdown of, any of the corporation’s transmission or distribution lines or apparatus, equipment or other facilities;

- (b) waste of electrical energy;
- (c) a demand for electrical energy in excess of the corporation's electrical energy resources; or
- (d) any other matter that restricts or may restrict the delivery of electrical energy by the corporation.

(2) Notwithstanding any other Act or law, if, in the opinion of the corporation, there is a power emergency or a power emergency may reasonably be expected to occur, the corporation may do all or any of the following:

- (a) allocate and distribute electrical energy between different customers or classes of customers, and, for that purpose may establish preferences and priorities between different customers or classes of customers;
- (b) interrupt or decrease delivery of electrical energy or cut off the supply of electrical energy to any customer or class of customers in order to effect the most economical, efficient and equitable use and distribution of electrical energy;
- (c) regulate, restrict, prohibit and control the corporation's generation, transmission, distribution, supply and use of electrical energy".

Coming into force

20(1) Subject to subsection (2), this Act comes into force on assent.

(2) Section 7 comes into force on proclamation.