

Table of Contents

CHAPTER 1. ALBERTA ENERGY REGULATOR (AER): BACKGROUND AND GENERAL ISSUES

§ 1:1 REDA

CHAPTER 2. ENERGY RESOURCES CONSERVATION BOARD (ERCB): BACKGROUND AND GENERAL ISSUES

- § 2:1 History
- § 2:2 Alberta Energy and Utilities Board (EUB)
- § 2:3 Energy Resources Conservation Board—Enabling
Legislation
- § 2:4 Alberta Energy Regulator (AER)—Enabling
Legislation
- § 2:5 AER Board of Directors
- § 2:6 Organization and Funding of the ERCB
- § 2:7 Constitutional Jurisdiction of the Alberta Energy
Regulator (formerly the ERCB & EUB)
- § 2:8 —Provincial Jurisdiction Over Natural Resources
- § 2:9 —Pipelines
- § 2:10 —Energy Exports
- § 2:11 —Jurisdiction to Decide Constitutional Questions
- § 2:12 —First Nations’ Rights
- § 2:13 Purposes of the AER—Importance of Statutory
Purposes
- § 2:14 —Purpose Sections in Other Statutes
- § 2:15 —The ERCB Mission, Vision and Core Values
- § 2:16 Functions of the AER
- § 2:17 —Overview of Responsibilities
- § 2:18 —Regulatory, Approval and Policy-making Functions
- § 2:19 —Advisory Function
- § 2:20 — —Statutory Provisions
- § 2:21 — —Specific Inquiries
- § 2:22 —Reserves Estimates and Supply and Demand
Forecasting
- § 2:23 General Powers of the ERCB
- § 2:24 —Power to Perform AER Functions and Purposes
- § 2:25 —Regulation-making Powers

- § 2:26 —Contractual Override Powers
- § 2:27 The AER’s Relationship with Other Regulatory Agencies, Departments and Processes
- § 2:28 —Ministerial Directions to the AER
- § 2:29 —Statutory Authority for Co-operative Arrangements
- § 2:30 —National Energy Board (*Succeeded by the Canadian Energy Regulator*)
- § 2:31 —Alberta Environment and Protected Areas
- § 2:32 —Natural Resources Conservation Board
- § 2:33 —Land Conservation and Reclamation
- § 2:34 —Surface Rights Board (subsumed into the Land and Property Rights Tribunal)
- § 2:35 —Regulatory Overlap with Other Provincial Government Departments, Agencies and Legislation
- § 2:36 —Municipal Land Use and Planning Process
- § 2:37 Environmental Regulation by the AER
- § 2:38 —Statutory Provisions
- § 2:39 —The Basis and Extent of the AER’s Environmental Jurisdiction
- § 2:40 —Implementation of the ERCB’s Environmental Jurisdiction
- § 2:41 —The Environmental Assessment Process
- § 2:42 —The “One Window” Process
- § 2:43 —Inclusion of Environmental Conditions in ERCB Orders
- § 2:44 —Evaluation of Environmental Effects
- § 2:45 —Specific Environmental Regulations and Guidelines
- § 2:46 —Archaeological, Palaeontological and Historical Resources
- § 2:47 —Habitat Protection
- § 2:48 —Native Prairie and Parkland Areas
- § 2:49 —Noise Regulation
- § 2:50 —Sulphur Handling and Storage
- § 2:51 —Underground Waste Disposal
- § 2:52 —Waste Management and Disposal
- § 2:53 —Storage Requirements
- § 2:54 —Water and Air Pollution—Including Flaring
- § 2:55 —Operations in Environmentally Sensitive Areas
- § 2:56 Emergency Response: Health, Safety and the Environment
- § 2:57 Security Management and Terrorism

CHAPTER 3. OIL AND GAS

- § 3:1 Statutory Purposes

TABLE OF CONTENTS

§ 3:2	General Regulatory, Enforcement and Other Powers
§ 3:3	Field, Pool and Zone Designation
§ 3:4	Commingling of Production from Two or More Pools
§ 3:5	Inspection, Reporting, Compensation and Remedial Measures
§ 3:6	Well Spacing—Purpose and Policy Objectives
§ 3:7	—Statutory Provisions
§ 3:8	—Criteria for the Establishment of Special Drilling Spacing Units
§ 3:9	—Application of Criteria
§ 3:10	—Rescission of Special Drilling Spacing Units
§ 3:11	—Procedure
§ 3:12	Well Target Areas—Purpose and Policy Objectives
§ 3:13	—Statutory Provisions
§ 3:14	—Reasons for and Implementation of Corner Target Areas—The 1974 Decision on Petroleum Activities in Irrigation Areas
§ 3:15	— —Decisions between 1974 and 1981
§ 3:16	— —The 1981 Decision on Target Area Requirements
§ 3:17	—Criteria for Modifying Target Areas
§ 3:18	—Application of Criteria
§ 3:19	—Procedure for Modifying Target Areas
§ 3:20	—Enforcement of Target Areas
§ 3:21	Pooling—Purpose and Policy Objectives
§ 3:22	—Statutory Provisions
§ 3:23	—Criteria
§ 3:24	—Application of Criteria
§ 3:25	—Procedure
§ 3:26	—Content of Order
§ 3:27	—Enforcement
§ 3:28	—Modification of Pooling Orders
§ 3:29	Well Licensing—Purpose and Policy Objectives
§ 3:30	—Statutory Provisions
§ 3:31	—Criteria
§ 3:32	—Application of Criteria—Need for the Well
§ 3:33	— —Well Location, Surface Impact and Surface Rights
§ 3:34	— —Mitigative Considerations
§ 3:35	— —Hazard to People
§ 3:36	— —Environmental Effects
§ 3:37	— —Availability of Acceptable Alternative
§ 3:38	— —Surface Economic Impact Exceeds Resource Extraction Benefits

- § 3:39 — —Proximity to Urban Area
- § 3:40 — —Specific Criteria
- § 3:41 — —Public Consultations and Negotiations
- § 3:42 — —Errors in Planning, Public Information and
the Application
- § 3:43 — —Operations Management
- § 3:44 — —Factors Not Relevant to Well Licence
Applications
- § 3:45 — —Procedure
- § 3:46 — —Construction Prior to Licence Approval
- § 3:47 — —Content of Order
- § 3:48 — —Well Licence Transfers
- § 3:49 — —Enforcement
- § 3:50 — —Sour Gas Well Licensing
- § 3:51 Production Rate Limitation—Purpose and Policy
Objectives
- § 3:52 — —Statutory Provisions
- § 3:53 — —Origins of Production Rate Limitation
- § 3:54 — —Maximum Rate Limitations (MRLs) and
Allowables
- § 3:55 — —Gas-Oil Ratio
- § 3:56 — —Good Production Practice
- § 3:57 — —Criteria for Relief from Production Rate
Limitations
- § 3:58 — —Application of Criteria
- § 3:59 — —Procedure
- § 3:60 — —Enforcement
- § 3:61 Prorating—Purpose and Policy Objectives
- § 3:62 — —Statutory Provisions
- § 3:63 — —Current Status of Prorating
- § 3:64 — —History of Prorating
- § 3:65 — —Production Spacing Units
- § 3:66 Unitization—Purpose and Policy Objectives
- § 3:67 — —Statutory Provisions
- § 3:68 — —Encouragement of Unitization by the Board
- § 3:69 — —Procedure Relating to Voluntary Unitization
- § 3:70 — —Turner Valley Unitization
- § 3:71 Enhanced Recovery—Purpose and Policy
Objectives
- § 3:72 — —Statutory Provisions
- § 3:73 — —Criteria
- § 3:74 — —Application of Criteria
- § 3:75 — —Procedure
- § 3:76 — —Enforcement

TABLE OF CONTENTS

§ 3:77	Gas Cap Production and Gas Production in Oil Sands Areas—Purpose and Policy Objective
§ 3:78	—Statutory Provisions
§ 3:79	—Criteria
§ 3:80	—Application of Criteria
§ 3:81	—Procedure
§ 3:82	—Enforcement
§ 3:83	Common Purchaser, Carrier and Processor Orders and Rateable Take of Gas Orders—General Matters—Purpose and Policy Objective
§ 3:84	— —Statutory Provisions
§ 3:85	— —Importance of Negotiation
§ 3:86	— —Effective Date of Orders
§ 3:87	Common Purchaser—Purpose and Policy Objectives
§ 3:88	—Statutory Provisions
§ 3:89	—Criteria
§ 3:90	—Application of Criteria—Drainage
§ 3:91	— —Opportunities for Marketing
§ 3:92	— —Future Markets
§ 3:93	—Procedure
§ 3:94	—The Non-discrimination Requirement
§ 3:95	Common Carrier—Purpose and Policy Objectives
§ 3:96	—Statutory Provisions
§ 3:97	Criteria
§ 3:98	Common Carrier—Application of Criteria—Inability of the Applicant to Make Reasonable Arrangements to Use the Existing Pipeline
§ 3:99	— —General Statutory Purposes—Avoidance of Duplication and Excess Capacity
§ 3:100	— —Absence of Pipeline Capacity
§ 3:101	Procedure
§ 3:102	Content of Order
§ 3:103	Enforcement
§ 3:104	Common Law Rights and Obligations
§ 3:105	Common Processor—Purpose and Policy Objectives
§ 3:106	—Statutory Provisions
§ 3:107	—Criteria
§ 3:108	—Application of Criteria—Existence of Reserves and Need for the Plant
§ 3:109	— —Inability of Parties to Agree on Processing Arrangement
§ 3:110	— —Economics of the Proposed Common Processor Operation
§ 3:111	—Procedure

- § 3:112 —Content of Order
- § 3:113 —Enforcement
- § 3:114 Rateable Take of Gas—Purpose and Policy Objectives
- § 3:115 —Statutory Provisions
- § 3:116 —Criteria
- § 3:117 —Application of Criteria—Entitlement to Proportional Recovery of Gas
- § 3:118 — —Drainage
- § 3:119 — —Applicant’s Lack of Opportunity to Produce
- § 3:120 — —Offer of Gas Sales Contract
- § 3:121 — —Failure to Achieve Unitization
- § 3:122 — —No Common Purchaser Order in Place
- § 3:123 Procedure
- § 3:124 Content of Order
- § 3:125 Gas Processing—Purpose and Policy Objectives
- § 3:126 —Statutory Provisions
- § 3:127 —Criteria
- § 3:128 —Application of Criteria
- § 3:129 —Factors Not Considered Relevant
- § 3:130 —Consultation and Negotiation
- § 3:131 —Sour Gas Plants—Emergency Response and Sulphur Recovery
- § 3:132 —Sidestream Extraction of Natural Gas Liquids
- § 3:133 —Procedure
- § 3:134 —Enforcement
- § 3:135 Ethane Extraction—Purpose and Policy Objectives
- § 3:136 —Statutory Provisions
- § 3:137 —Current Ethane Extraction Policy and Implementation
- § 3:138 —Criteria for Field Plants
- § 3:139 —Procedure
- § 3:140 —Content of Order
- § 3:141 —History of Ethane Extraction Regulation
- § 3:142 Coalbed Methane—Purpose and Policy Objectives
- § 3:143 —Statutory Provisions
- § 3:144 —Criteria
- § 3:145 —Application of Criteria—Need for the Project
- § 3:146 — —Well Spacing
- § 3:147 — —Water Issues
- § 3:148 — —Noise, Weed Control, Soil Compaction and other Environmental Issues
- § 3:149 — —Experimental Schemes
- § 3:150 —Procedure

TABLE OF CONTENTS

- § 3:151 AER Ordered Well Suspension or Shutting Down—
Purpose and Policy Objectives
- § 3:152 ERCB Ordered Well Suspension or Shutting
Down—Statutory Provisions
- § 3:153 —Procedure
- § 3:154 —Examples
- § 3:155 Well Suspension and Abandonment—Purpose and
Policy Objectives
- § 3:156 —Statutory Provisions
- § 3:157 —Procedure
- § 3:158 —Liability for Costs of Well Abandonment
- § 3:159 Orphan Facilities—Definition and Issues
- § 3:160 —Board Policy
- § 3:161 Oil Sands Development and Production—Purpose
and Policy Objectives
- § 3:162 —Statutory Provisions
- § 3:163 —Criteria
- § 3:164 —Application of Criteria—Conservation and
Technical Matters
- § 3:165 — —Environmental Matters
- § 3:166 — —Cost-benefit and Social Impact Matters
- § 3:167 — —Designation of Hydrocarbons as Oil Sands
- § 3:168 —Procedure for Major Development Applications
- § 3:169 —Approval of Multi-stage Projects
- § 3:170 —Regional Development and Cumulative Effects
- § 3:171 —Public Consultation
- § 3:172 —Content of Order
- § 3:173 —Enforcement
- § 3:174 —Experimental Schemes
- § 3:175 —Gas Production in Oil Sands Areas
- § 3:176 —Confidentiality of Information
- § 3:177 —History of Oil Sands Regulation
- § 3:178 Industrial Development Permits—Purpose and
Policy Objectives
- § 3:179 —Statutory Provisions
- § 3:180 —ERCB Jurisdiction under s. 30 of the Oil and
Gas Conservation Act
- § 3:181 —Criteria
- § 3:182 —Application of Criteria
- § 3:183 —Factors Not Considered Relevant
- § 3:184 —Procedure
- § 3:185 —Content of Order
- § 3:186 Export of Natural Gas—Purpose and Policy
Objectives
- § 3:187 —Statutory Provisions

- § 3:188 —Criteria
- § 3:189 —Application of Criteria—Needs and Reserves
Criteria
- § 3:190 — —“Other Matters” Criterion
- § 3:191 —Factors Not Considered Relevant
- § 3:192 —Procedure
- § 3:193 —Content of Order
- § 3:194 —Enforcement
- § 3:195 Pipelines—Purpose and Policy Objectives
- § 3:196 —Constitutional Issue
- § 3:197 —Statutory Provisions
- § 3:198 —Criteria
- § 3:199 Export of Pipeline—Application of Criteria
- § 3:200 Export of Natural Gas—Factors Not Considered
Relevant
- § 3:201 —Corridors and Routing
- § 3:202 — —Criteria
- § 3:203 — —Application of Criteria
- § 3:204 — —Evidence Regarding Routing Options
- § 3:205 Pipeline Conversion
- § 3:206 Export of Pipeline—Sour Gas Pipelines—Policy
Issue
- § 3:207 Export of Natural Gas—Sour Gas Pipelines—
Criteria
- § 3:208 — —Application of Criteria
- § 3:209 —Steam Distribution Lines
- § 3:210 —Procedure
- § 3:211 —Content of Order
- § 3:212 —Enforcement
- § 3:213 —Monitoring of Pipelines
- § 3:214 —Abandonment and Removal of Pipelines
- § 3:215 Sour Gas Facilities—Purpose and Policy Objectives
- § 3:216 —Setback Distances
- § 3:217 —Sour Well Licensing and Drilling Requirements
- § 3:218 —Critical Sour Wells
- § 3:219 —Completion, Servicing and Suspension of Sour
Wells
- § 3:220 —Evacuation and Ignition for Sour Gas Wells
- § 3:221 —Sour Gas Flaring
- § 3:222 —Land Use Conflicts
- § 3:223 —Emergency Response Plans and Emergency
Planning Zones
- § 3:224 —Financial Security and Technical and
Operational Ability of the Proponent
- § 3:225 Carbon Capture and Storage (CCS)

TABLE OF CONTENTS

CHAPTER 4. HYDRO AND ELECTRIC ENERGY

- § 4:1 Purpose and Policy Objective
- § 4:2 General Statutory Provisions
- § 4:3 Enforcement Powers
- § 4:4 Hydro Developments and Thermal Power Plants—
Statutory Provisions
- § 4:5 —Criteria
- § 4:6 —Application of Criteria
- § 4:7 —Procedure
- § 4:8 —Content of Order
- § 4:9 Small Power—Statutory Provisions
- § 4:10 —Criteria
- § 4:11 —Criterion Excluded by Statute
- § 4:12 —Application of Criteria
- § 4:13 —Procedure
- § 4:14 —History of Small Power Policy
- § 4:15 Transmission Lines—Statutory Provisions
- § 4:16 —Criteria
- § 4:17 —Application of Criteria
- § 4:18 —Factors Not Considered Relevant
- § 4:19 —Interventions—Procedural and Substantive Issues
- § 4:20 —Transmission Line Planning
- § 4:21 —Relocation
- § 4:22 —Procedure
- § 4:23 —Content of Order
- § 4:24 —The Edmonton-Calgary Transmission Line
Controversy and Its Aftermath
- § 4:25 Distribution Systems—Statutory Provisions
- § 4:26 —Criteria
- § 4:27 —Application of Criteria
- § 4:28 —Content of Order
- § 4:29 Industrial Systems—Statutory Provisions and
Criteria
- § 4:30 —Application of Criteria
- § 4:31 —Procedure
- § 4:32 Interconnections—Statutory Provisions
- § 4:33 —Constitutional Jurisdiction
- § 4:34 —Criteria
- § 4:35 —Application of Criteria
- § 4:36 Compensation

CHAPTER 5. COAL RESOURCES

- § 5:1 Purpose and Policy Objectives—Statutory Purposes

- § 5:2 —Purposes in the Coal Development Policy
- § 5:3 Statutory Provisions—General Powers and Duties
- § 5:4 —Exploration and Drilling
- § 5:5 —Coal Development Applications
- § 5:6 —Coal Processing Plants
- § 5:7 —Industrial Development Permits
- § 5:8 —Environmental Conservation
- § 5:9 —Restricted Areas
- § 5:10 Criteria
- § 5:11 Application of Criteria—Technical and Geological Information
- § 5:12 —Conservation
- § 5:13 —Resource Development Conflicts
- § 5:14 —Environmental Impact
- § 5:15 —Social Impact
- § 5:16 —Economic and Cost-benefit Analysis
- § 5:17 —Safety, Transportation and Historical Impacts
- § 5:18 Procedure—Exploration and Drilling
- § 5:19 —Coal Development
- § 5:20 —Coal Processing
- § 5:21 —Overview of Hearing and Approval Process
- § 5:22 —One Window Approach
- § 5:23 —Coal Co-ordinating Committee
- § 5:24 —Public Participation
- § 5:25 Content of Order and Licence
- § 5:26 Enforcement
- § 5:27 Reports and Records

CHAPTER 6. PRACTICE AND PROCEDURE

- § 6:1 Statutory Provisions and Rules
- § 6:2 Natural Justice and Procedural Rights
- § 6:3 Bias and Impartiality
- § 6:4 Burden of Proof
- § 6:5 Application Procedure
- § 6:6 Pre-hearing Meetings
- § 6:7 Hearings
- § 6:8 Standing
- § 6:9 Representation of Interveners
- § 6:10 Discovery and Information Requests
- § 6:11 Evidence
- § 6:12 Official Notice
- § 6:13 Participation by the Crown
- § 6:14 Staff Evidence

TABLE OF CONTENTS

- § 6:15 Decisions
- § 6:16 Orders
- § 6:17 Local Intervener Costs—Statutory Provisions
- § 6:18 —Overview of the ERCB’s Approach
- § 6:19 —Eligibility Criteria—Interest in Land
- § 6:20 — —Land Adversely Affected
- § 6:21 —The ERCB’s Discretion to Deny or Reduce Costs Claimed by Eligible “Local Interveners”
- § 6:22 —Liability for Intervener Costs
- § 6:23 —Procedure for Claiming Local Intervener Costs
- § 6:24 —Intervener Costs before a Notice of Hearing and when a Hearing is Adjourned, Deferred or Cancelled
- § 6:25 —ERCB Review of Local Intervener Costs Awards
- § 6:26 Rehearing and Reconsideration
- § 6:27 Determination of ERCB Jurisdiction
- § 6:28 Appeal and Judicial Review
- § 6:29 Communication, Public Consultation and Appropriate Dispute Resolution—Purpose and Policy Objectives
- § 6:30 —Public Involvement Guidelines
- § 6:31 —Communication with the Public and Local Authorities
- § 6:32 —Consultative Processes and Negotiation
- § 6:33 —Appropriate Dispute Resolution

APPENDIX

Appendix A. Glossary

Table of Cases

Table of Contents

CHAPTER 1. NOTE ON THE CANADIAN ENERGY REGULATOR

§ 1:1 General

CHAPTER 2. CONSTITUTIONAL ASPECTS OF ENERGY REGULATION IN CANADA

§ 2:1 Introduction

§ 2:2 Jurisdiction over Energy Production

§ 2:3 Jurisdiction over Gathering, Processing and Transportation

§ 2:4 Jurisdiction over Marketing

§ 2:5 Conclusion

§ 2:6 Indigenous Peoples' Rights

CHAPTER 3. THE CANADIAN ENERGY REGULATOR

§ 3:1 General

CHAPTER 4. HISTORY AND BACKGROUND OF THE NATIONAL ENERGY BOARD (1959 – 2019)

§ 4:1 General

CHAPTER 5. TRIBUNAL APPOINTMENT AND ORGANIZATION OF THE NEB (1959 – 2019)

§ 5:1 General

CHAPTER 6. STATUTORY MANDATE OF THE CER

§ 6:1 General

**CHAPTER 7. STATUTORY
INTERPRETATION AND JURISDICTION
OVER QUESTIONS OF CONSTITUTIONAL
LAW**

§ 7:1 General

CHAPTER 8. POLICY CONSIDERATIONS

§ 8:1 General

CHAPTER 9. ADVISORY FUNCTION

§ 9:1 General

CHAPTER 10. OIL AND GAS

I. PIPELINE CONSTRUCTION

A. STATUTORY CONSIDERATIONS

§ 10:1 General

B. JURISDICTIONAL ISSUES

§ 10:2 General

§ 10:3 Pipeline-associated Facilities

§ 10:4 Interprovincial Pipelines

§ 10:5 Pipelines which Just Cross Provincial Boundaries

§ 10:6 Municipal bylaws

**C. CERTIFICATES OF PUBLIC CONVENIENCE
AND NECESSITY**

§ 10:7 General

§ 10:8 Criteria

§ 10:9 The Onshore Pipeline Regulations

§ 10:10 Supply—Gas

§ 10:11 —Oil

§ 10:12 —Diluent

§ 10:13 Markets, Need and Economic Feasibility

§ 10:14 Surveying, Studying and Facilities Design

§ 10:15 Pipeline Integrity and Public Safety

§ 10:16 Public Engagement, Detailed Routing, and Land
Matters

§ 10:17 Environmental Impacts—The Onshore Pipeline
Regulations

§ 10:18 —The Impact Assessment Act (IAA)—IAA

TABLE OF CONTENTS

- § 10:19 — —Former CEAA, 2012 (pre-August 2019)
- § 10:20 — —Former CEAA (pre-July 2012)
- § 10:21 —The Mackenzie Valley Resource Management Act
- § 10:22 —Relationships With Other Government Agencies
- § 10:23 —Deferred or “Phased” Environmental Studies
- § 10:24 —Vegetation
- § 10:25 —Watercourse Crossings, Fisheries, and Hydrology
- § 10:26 —Wildlife
- § 10:27 —Impacts on Agriculture
- § 10:28 —Impacts on the Marine Environment
- § 10:29 —Pollution
- § 10:30 —Archaeological and Heritage Resources
- § 10:31 —Noise
- § 10:32 —Cumulative Effects
- § 10:33 —Sustainable Development
- § 10:34 —Reclamation
- § 10:35 —Greenhouse gas emissions
- § 10:36 —Upstream/Downstream Effects
- § 10:37 Socio-Economic Impacts
- § 10:38 Indigenous Peoples’ Rights and Interests
- § 10:39 Economic Feasibility and Financial Matters
- § 10:40 Potential Commercial Impacts
- § 10:41 Conditions

D. ACQUISITION OF LANDS

- § 10:42 General
- § 10:43 Acquisition Agreements, Negotiation and Arbitration
- § 10:44 Right of Entry Orders
- § 10:45 Damage
- § 10:46 Crown Lands
- § 10:47 First Nations Lands

E. MINOR APPLICATIONS AND EXEMPTIONS

- § 10:48 General

II. PIPELINE OPERATION

A. LEAVE TO OPEN

- § 10:49 General

B. RATE AND TRAFFIC REGULATION

- § 10:50 Statutory Considerations

§ 10:51	Jurisdiction to Set Rates
§ 10:52	Group 1 and Group 2 Companies
§ 10:53	Complaints Procedure
§ 10:54	Hearings and Decisions
§ 10:55	—Burden of Proof
§ 10:56	—Phased Hearings
§ 10:57	—Expedited Proceedings & Multi-Year Fixed Tolls
§ 10:58	—Interim Decisions
§ 10:59	—Retroactive Orders
§ 10:60	—Negotiated Settlements
§ 10:61	Common Carrier Issues—Oil
§ 10:62	—Gas
§ 10:63	—Ordered Provision of Facilities
§ 10:64	Rate-making Principles
§ 10:65	—Exceptions to Rate Base—Rate of Return Regulation
§ 10:66	—Fixed Versus Variable Rates
§ 10:67	—Incentive Rate-Making
§ 10:68	Test Period
§ 10:69	Rate Base
§ 10:70	—Plant in Service
§ 10:71	— —Changes in Use of Pipeline
§ 10:72	— —Unauthorized Capital Projects
§ 10:73	— —Abandonment Costs
§ 10:74	— —Costs of Facilities Not Built
§ 10:75	— —Cost Overruns
§ 10:76	— —Governance and Compensation Structure
§ 10:77	—Allowance for Funds Used During Construction
§ 10:78	—Depreciation
§ 10:79	—DepreciationNegative Net Salvage Value
§ 10:80	—Project Development Costs
§ 10:81	—Working Capital
§ 10:82	Rate of Return
§ 10:83	—Capital Structure
§ 10:84	—Return on Common Equity
§ 10:85	—Risk
§ 10:86	— —Business Risk
§ 10:87	— —Financial Risk
§ 10:88	Cost of Service
§ 10:89	—Deferral Accounts
§ 10:90	—Operation and Maintenance
§ 10:91	—Depreciation
§ 10:92	—Income Taxes
§ 10:93	—Rate Hearing and Litigation Costs

TABLE OF CONTENTS

- § 10:94 —Research and Development Expenses
- § 10:95 —National Energy Board Cost Recovery
- § 10:96 —Other Discretionary Expenses
- § 10:97 Rate Setting
- § 10:98 —Tariffs
- § 10:99 — —Tariff Components
- § 10:100 —Tolls
- § 10:101 —Prohibition Against Discrimination
- § 10:102 —Tolling Methodology for Facilities Expansion
- § 10:103 —Cost Allocation
- § 10:104 — —System Rate Zoning
- § 10:105 — —Allocation of Fixed Costs to Commodity Component
- § 10:106 — —Volume vs. Distance (Allocation Units)
- § 10:107 —Apportionment of Capacity
- § 10:108 —Queuing and Access
- § 10:109 Toll Design
- § 10:110 —Promotional Tolls
- § 10:111 —Automatic Tracking
- § 10:112 —Types of Tolls
- § 10:113 —Term Differentiated Tolls

III. PIPELINE DEACTIVATION, REACTIVATION AND DECOMMISSIONING

- § 10:114 General

IV. PIPELINE ABANDONMENT

- § 10:115 General

V. SMALL PIPELINES

- § 10:116 General

VI. CROSSING PIPELINE RIGHTS-OF-WAY AND SAFETY ZONES

- § 10:117 General

VII. PIPELINE ACCIDENTS

- § 10:118 General

VIII. TRANSFER OF PIPELINE FACILITIES

- § 10:119 General

IX. DEVIATIONS AND RELOCATIONS OF A PIPELINE

§ 10:120 General

X. REGULATION OF CONSTRUCTION AND OPERATIONS

§ 10:121 General

XI. ENFORCEMENT AND OFFENCES

§ 10:122 General

XII. EXPORT AND IMPORT OF OIL AND GAS

§ 10:123 General

§ 10:124 Statutory Considerations

§ 10:125 Historical Aspects

§ 10:126 —Price

§ 10:127 —Surplus

§ 10:128 — —25A₄ Surplus Test

§ 10:129 — —1979 Surplus Test

§ 10:130 — —Reserves Formula

§ 10:131 — —R/P Ratio

§ 10:132 —Cost-Benefit Analysis

§ 10:133 —Facilities

§ 10:134 —Markets

§ 10:135 Licensing Considerations

§ 10:136 —Market-Based Procedure (Historical)

§ 10:137 — —Complaints

§ 10:138 — —Export Impact Assessment — Pre-July 2012

§ 10:139 — —Public Interest — Pre-July 2012

§ 10:140 —Sunset Clauses

§ 10:141 —Impact of the Canada-United States Free Trade Agreement

§ 10:142 —Environmental and Socio-Economic Considerations

§ 10:143 “Spot” Sales

§ 10:144 Import/Export

XIII. EXPORT AND IMPORT OF OIL

§ 10:145 General

XIV. INTERPROVINCIAL OIL AND GAS TRADE

§ 10:146 General

TABLE OF CONTENTS

XV. DEVELOPMENT IN CANADA'S NORTH

- § 10:147 The Mackenzie Valley—Introduction
- § 10:148 —MacKenzie Valley Resource Management Act
- § 10:149 —Onshore Pipeline Regulations
- § 10:150 —Canada Oil and Gas Operations Act and
Associated Regulations

XVI. OIL AND GAS ON FRONTIER LANDS

- § 10:151 General

**XVII. OIL AND GAS PRICING UNDER THE
*ENERGY ADMINISTRATION ACT***

- § 10:152 Petroleum Levy
- § 10:153 Crude Oil Regulation
- § 10:154 Domestic Gas Price—Historical
- § 10:155 Canadian Cost of Service—Historical

CHAPTER 11. ELECTRICITY

**I. INTERNATIONAL AND INTERPROVINCIAL
POWER LINES**

- § 11:1 Statutory and Policy Considerations
- § 11:2 Permit Procedure
- § 11:3 Certificate Procedure
- § 11:4 —Need for the Power Line
- § 11:5 —Location and Construction
- § 11:6 —Conditions
- § 11:7 —Public Involvement
- § 11:8 —Environmental and Socio-Economic Matters
- § 11:9 —Electrical Reliability
- § 11:10 —NAFTA
- § 11:11 —Land Acquisition Agreements

II. EXPORT OF ELECTRICITY

- § 11:12 Statutory Considerations
- § 11:13 Historical Aspects—Surplus
- § 11:14 —Price
- § 11:15 Fair Market Access
- § 11:16 Environmental and Social Effects of Electricity
Exports
- § 11:17 Export Facilities
- § 11:18 Emergency Exports

CHAPTER 12. OFFSHORE RENEWABLE ENERGY PROJECTS AND OFFSHORE POWER LINES

§ 12:1 General

CHAPTER 13. PRACTICE AND PROCEDURE

I. APPLICATIONS PROCESS

- § 13:1 COVID-19 Impacts
- § 13:2 General
- § 13:3 Public Consultation
- § 13:4 Application Submission
- § 13:5 Hearing Order
- § 13:6 Notice
- § 13:7 Adjournments and Suspensions
- § 13:8 Interventions—General
- § 13:9 —Costs and Intervenor Funding
- § 13:10 —Alternative Dispute Resolution
- § 13:11 Pre-hearing Conference
- § 13:12 Discovery and Collection of Evidence
- § 13:13 Right to Structure Own Case
- § 13:14 Filing a Notice of Motion
- § 13:15 Public Hearings
- § 13:16 Burden of Proof and Evidence—General
- § 13:17 —Production
- § 13:18 —Direct Testimony and Cross-examination
- § 13:19 —Confidential Information
- § 13:20 Role of Board Staff
- § 13:21 Hearing Panels
- § 13:22 Deliberation and Decision

II. APPEAL, CER REVIEW, AND JUDICIAL REVIEW

- § 13:23 Appeal
- § 13:24 CER Review
- § 13:25 Judicial Review

TABLE OF CONTENTS

CHAPTER 14. ACCESS TO INFORMATION

§ 14:1 General

APPENDICES

Appendix A. A Brief History on Oil & Gas Pricing and the
Alberta Government

Appendix B. Provincial Natural Gas Removal Policy

Appendix C. Glossary

Table of Cases