

Publisher's Note

An Update has Arrived in Your Library for:

Please circulate this notice to anyone in your office who may be interested in this publication. <i>Distribution List</i>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

THE ELECTRICITY INDUSTRY IN CANADA

Gowling WLG

Release No. 4, October 2023

Electricity has been central to the development and maintenance of the economic and social fabric of Canada for over a century. Every corporation is affected by energy in Canada and those representing the corporation must have an adequate knowledge of the energy industry and why it works. This unique work is a comprehensive review of the electricity industry in every province and territory of Canada. Specific topics covered include: Constitutional Jurisdiction; Nuclear Regulation; Environmental Regulation; Taxation; Real Estate; Import and Export of Electricity; Sale of Electricity; and Conservation — Demand Management. In addition to the commentary and analysis, this important work also provides the full text of all relevant provincial and territorial statutes and regulations as well as an index to selected legal literature and a collection of Words and Phrases that are relevant to energy law and regulation.

THOMSON REUTERS®

Customer Support

1-416-609-3800 (Toronto & International)

1-800-387-5164 (Toll Free Canada & U.S.)

E-mail CustomerSupport.LegalTaxCanada@TR.com

This publisher's note may be scanned electronically and photocopied for the purpose of circulating copies within your organization.

What's New in This Update

This release contains legislative updates to the *Electricity Act* of New Brunswick, the *Energy Corporation Act* of Newfoundland and Labrador, and the *Electricity Act* of Nova Scotia as well as case annotations to legislation.

Commentary Highlights

Ontario Electricity Act, 1998 — Section 1: Purposes — The provincial government introduced “FIT programs” to recruit suppliers of renewable electricity to the province’s electrical grid. The FIT programs caused a large increase in the Global Adjustment levy imposed on electricity consumers. The applicant brought applications to challenge this scheme as an unconstitutional attempt to tax through regulation. The applications were dismissed. The interests of consumers with respect to prices and adequacy, reliability, and quality of electricity service were only one of 13 purposes of the *Electricity Act, 1998* and at least five of such purposes could arguably support FIT programs. The FIT programs procured renewable energy, advanced environmental and conservation policies, and promoted participation of Indigenous communities in the energy system. Any economic stimulus from FIT programs was reasonably related to the regulatory scheme of the *Electricity Act, 1998*: *National Steel Car Ltd. v. Independent Electricity System Operator*, 2022 ONSC 2567, 2022 CarswellOnt 5983 (Ont. S.C.J.).

Ontario Energy Board Act, 1998 — Section 79.17: Form of invoice for prescribed classes of consumers — The actual information required on a Local Distributor’s invoice is set out in Regulation 275/04, *Information on Invoices to Low-volume Consumers of Electricity*. In this case, Minister of National Revenue assessed a telecommunications company on the basis that when purchasing electricity in Ontario, it received a single supply of electricity. The separate supplies of delivery services and regulatory services were integral elements of the overall supply of electricity to the applicant. The supply to local distributors of transmission services and regulatory services was work of a preparatory nature to the supply of electricity, as were the costs incurred in distributing electricity. The fact that local distributors itemized certain items on their invoices had no bearing on whether they made a single supply or multiple supplies. The regulations required local distributors to itemize their invoices, which was not done. The Tax Court found that local distributors made a single supply of electricity: *Bell Telephone Company of Canada v. The King*, 2023 TCC 45, 2023 CarswellNat 1025 (T.C.C. [General Procedure]).

Nova Scotia Public Utilities Act — Section 64: Approval of schedule of rates and charges of utility — The Board has endorsed the following principles of rate-making:

1. The related, “practical” attributes of simplicity, understandably, public acceptability, and feasibility of application.
2. Freedom from controversies as to proper interpretation.
3. Effectiveness in yielding total revenue requirements under the fair-return standard.
4. Revenue stability from year to year.

5. Stability of the rates themselves, with a minimum of unexpected changes seriously adverse to existing customers. (Compare “The best tax is an old tax.”).
6. Fairness of the specific rates in the apportionment of total costs of service among the different consumers.
7. Avoidance of “undue discrimination” in rate relationships.
8. Efficiency of the rate classes and rate blocks in discouraging wasteful use of service while promoting all justified types and amounts of use:
 - (a) in the control of the total amounts of service supplied by the company;
 - (b) in the control of the relative uses of alternative types of service (on-peak versus off-peak electricity, Pullman travel versus coach travel, single-party telephone service versus service from a multi-party line, etc.). (Exhibit N-92) (James Bonbright, *Principles of Public Utility Rates*, Columbia University Press, 1961, p. 291).

Nova Scotia Power Inc., Re, 2023 NSUARB 12, 2023 CarswellNS 76 (N.S. Utility & Review Bd.).

ProView Developments

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work
- As with the print product, the front matter is in a different order than previously displayed
- The Table of Cases and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable
- Footnote text only appears in ProView-generated PDFs of entire sections and pages