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THE ELECTRICITY INDUSTRY IN CANADA

Gowling WLG

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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.

What's New in This Update

This release features updates to the legislation in the appendices. Additionally, there have been updates to Appendix WP. Words and Phrases.

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Commentary Highlights

- **APPENDIX WP. WORDS AND PHRASES — NOVA SCOTIA POWER INCORPORATED** — Nova Scotia Power Incorporated (NSPI) ... is the primary supplier of electricity in the province of Nova Scotia. *Nova Scotia Power Inc., Re*, 2018 NSUARB 47, 2018 CarswellNS 147 (N.S. Utility & Review Bd.) at para. 1 Gurnham (Chair), Melanson and Clarke (Members).
- **APPENDIX WP. WORDS AND PHRASES — OEB** — The OEB is the independent regulator of electricity and natural gas sectors in Ontario. The OEB is an independent quasi-judicial regulatory body with broad statutory powers to regulate the natural gas industry. *Leamington (Municipality of) v. Enbridge Gas Inc.*, 2024 ONSC 867, 2024 CarswellOnt 1516 (Ont. Div. Ct.) at paras. 8, 11 Sachs, Backhouse and Lococo JJ.
- **APPENDIX WP. WORDS AND PHRASES — PROPRIETARY CHARGE** — There is some variation in the way in which the courts have referred to this option [a proprietary charge]. Gonthier J. in [*Westbank First Nation v. British Columbia Hydro & Power Authority*, [1999] 3 S.C.R. 134 (S.C.C.)], called it a “user fee” and characterized it as a “charge for services directly rendered”. By contrast, Rothstein J. in [*620 Connaught Ltd. v. Canada (Attorney General)*, 2008 SCC 7 (S.C.C.)], quoted as follows from Professor Hogg in *Constitutional Law of Canada* (5th ed, 2007), at pp. 870-71: [Proprietary charges] are those levied by a province in the exercise of proprietary rights over its public property. Thus, a province may levy charges in the form of license fees, rents or royalties as the price for the private exploitation of provincially-owned natural resources; and a province may charge for the sales of books, liquor, electricity, rail travel or other goods or services which it supplies in a commercial way. The term “proprietary charge” therefore may refer to a charge by a province not only for the use of its property (such as natural resources), but also for the use of its services. I will use the term “proprietary charge” rather than “user fee” in these Reasons. *Steam Whistle Brewing Inc. v. Alberta Gaming and Liquor Comm.*, 2018 ABQB 476, 2018 CarswellAlta 1180, 79 B.L.R. (5th) 244, 428 D.L.R. (4th) 697 (Alta. Q.B.) at paras. 43, 44 Marriott J., reversed in part 2019 ABCA 468 (Alta. C.A.), additional reasons 2020 ABCA 210 (Alta. C.A.).