

# Canada Energy Law Service

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Rel 12

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## THE SASKATCHEWAN OIL AND GAS CONSERVATION BOARD

Section 7 of *The Oil and Gas Conservation Act*<sup>1</sup> states that the Lieutenant-Governor in Council may establish an Oil and Gas Conservation Board, with such members as he may deem advisable. Membership is for the period of time determined by the Lieutenant-Governor in Council, who also has the authority to set the quorum for transaction of business.<sup>2</sup> Subsection 7(7) authorizes the Minister of Energy and Mines to appoint a secretary to the Board.

The Board's general jurisdiction is set out in subsection 7(8) of the Act:

7 (8). The Board may exercise the powers and shall perform the duties hereinafter conferred and imposed, and shall inquire into any matter referred to it by the minister and make a report to the minister thereon.

The potential jurisdiction of the Board (if called upon to act) is very wide. Section 3 sets out the purposes of the statute, which include to prevent waste, to regulate oil and gas operations to ensure the greatest ultimate recovery, to protect correlative rights of owners, to enable each owner to obtain his just share of production, and to develop and utilize oil and gas resources in the province for its people. To effectuate these purposes, section 6 gives the Minister broad powers to carry out inquiries in relation to drilling, occurrence, production, transportation, processing, etc of oil and gas. Thus, if so delegated by the Minister, there are broad areas of inquiry available to the Board.

The history of the legislation under which the Board may be established has been reviewed elsewhere.<sup>3</sup> In the discussions between government and industry which led up to passage of the Act, industry favored a more or less independent Board similar in constitution to that then in existence in Alberta. However, the government favored a board responsible to the Minister, so the Chairman of the Board was the Deputy Minister of Mineral Resources.<sup>4</sup>

**The Board is presently not constituted.**<sup>5</sup> However, during the 1960s it functioned and was heavily involved in unitization matters, and also held hearings in relation to pipelines and pooling.<sup>6</sup> Early non-government members of the Board included geology and chemistry professors from the University of Saskatchewan.<sup>7</sup> Staff members of the Department of Mineral Resources<sup>8</sup> were utilized as necessary, for technical advice.<sup>9</sup> In addition, Dr Herman Kaveler of Oklahoma City was retained as a consultant to the Board in the early years, due to his wide experience in oil and gas conservation matters.<sup>10</sup>

The Board's role in relation to unitization arose from subsection 35(1) of *The Oil and Gas Conservation Act*. It provides that the Lieu-

40-3014

Sask. Oil and Gas Conserv. Bd. Commentary

1984-12-12

Rel 12

must refer the application to the Board. After a hearing, the Board shall make recommendations to the Minister.<sup>25</sup>

Under section 51 of *The Oil and Gas Conservation Act*, the Board has broad powers to collect data, make inspections, examine books and records, and examine wells. Moreover, it has the powers of commissioners under *The Public Inquiries Act*,<sup>26</sup> for the purposes of carrying out inquiries.

The Oil and Gas Conservation Board's authority in relation to pipelines arises from *The Pipe Lines Act*.<sup>27</sup> This legislation prohibits the construction of oil and gas pipelines without a permit from the Minister of Energy and Mines.<sup>28</sup> Before granting a permit, the Minister may, on his own initiative or on the application of any interested person, order the Board to conduct a public hearing in regard to the proposed pipeline, and to make recommendations to him thereon.<sup>29</sup> More generally, section 36 of the Act enables the Minister to request a hearing by the Board "on any matter". This procedure may also be triggered by an interested person, so long as the Minister does not consider the application frivolous or vexatious. As mentioned *supra*, the previously-constituted Board held hearings in relation to pipelines.

An analysis of the possibility of judicial review in relation to recommendations of the Board has been conducted elsewhere,<sup>30</sup> and concluded that the prerogative writs might be available under ordinary principles of administrative law.

#### NOTES

1. *The Oil and Gas Conservation Act*, RSS 1978, c O-2.
2. *Id*, subsecs 7(3), (4).
3. "Preparing and Presenting a Conservation Board Hearing in Saskatchewan" (1969), 7 Alta L Rev 414.
4. *Id* at 418. The Department of Mineral Resources is now called the Department of Energy and Mines.
5. Interview with Douglas R Gillard, Director of the Saskatchewan Government Petroleum and Natural Gas Branch, Department of Mineral Resources, Government of Saskatchewan, October 29, 1979. That the Board remains unconstituted was confirmed by a personal communication with Myron Sereda, Director, Engineering Branch, Department of Energy and Mines, May 2, 1984.
6. Interview with Douglas R Gillard, *id*.
7. *Supra*, note 3 at 418 to 419.
8. The Department of Mineral Resources is now called the Department of Energy and Mines.
9. Interview with Douglas R Gillard, *supra*, note 5.
10. *Supra*, note 3 at 419.
11. *Supra*, note 3 at 419.
12. *Supra*, note 3 at 420.

March 1988  
CELS 28

40-4011

## SASKATCHEWAN PUBLIC UTILITIES REVIEW COMMISSION

The Public Utilities Review Commission was established in 1982 by *The Public Utilities Review Commission Act*.<sup>1</sup> The Commission was disbanded in 1987 when the Lieutenant Governor in Council cancelled the appointments of six of the then seven commissioners and ordered that the appointment of the remaining commissioner be terminated as of October 1, 1987.<sup>1a</sup> When functioning, the Commission regulates changes in rates charged by a variety of Saskatchewan Crown corporations.<sup>2</sup> Its energy-related jurisdiction is confined to the regulation of rates charged by Saskatchewan Power Corporation,<sup>3</sup> North-Sask Electric Ltd,<sup>4</sup> and any corporation designated in the regulations,<sup>5</sup> for the sale of electrical energy or gas within the province.

### I. TRIBUNAL APPOINTMENT AND ORGANIZATION

The Public Utilities Review Commission consists of up to seven commissioners appointed by the Lieutenant Governor in Council<sup>6</sup> for terms of not more than five years.<sup>7</sup> One commissioner is designated chairman and, another, vice-chairman of the Commission.<sup>8</sup> Section 18(2) of *The Public Utilities Review Commission Act* provides that the chairman of the Commission "is its chief executive officer, has supervision of all its employees and [ordinarily] shall preside at all its meetings". Temporary commissioners may also be appointed.<sup>9</sup>

The Act requires the Commission to employ a secretary with certain specified duties.<sup>10</sup> It empowers the Commission to hire any other officers or employees considered necessary.<sup>11</sup> The Commission may also appoint technical, or other, advisors "on any matter with respect to which the Commission considers it necessary to have information for the proper performance of its duties".<sup>12</sup>

### II. STATUTORY MANDATE

#### A. Powers and Duties

Section 24(1) of *The Public Utilities Review Commission Act* requires that the Commission perform any duties assigned to it by that Act, any other statute or the regulations. It also confers upon the Commission "all the powers necessary to perform those duties".

Section 24(2) of the Act requires the Commission to comply with directions of the Lieutenant Governor in Council.<sup>13</sup> Section 24(3) adds that,

Any direction given pursuant to subsection (2) is to be given in the form of an Order in Council, published in the Gazette and, where the direction was relevant to the Commission in arriving at its decision,