

CONSOLIDATION OF UTILITY RATES REVIEW COUNCIL ACT

S.Nu. 2001,c.3

In force March 31, 2001, except s.22

s.22 in force March 30, 2001

(Current to: October 14, 2010)

The following provision has been deleted for the purposes of this consolidation:
s.21 (Consequential and Other Amendments)

AS AMENDED BY:

S.Nu. 2010,c.3,s.18

s.18 in force April 1, 2003 (deemed)

S.Nu. 2010,c.6

In force March 23, 2010

This consolidation is not an official statement of the law. It is an office consolidation prepared for convenience only. The authoritative text of statutes can be ascertained from the *Revised Statutes of the Northwest Territories, 1988* and the Annual Volumes of the Statutes of the Northwest Territories (for statutes passed before April 1, 1999) and the Statutes of Nunavut (for statutes passed on or after April 1, 1999).

A copy of a statute of Nunavut can be obtained from the Territorial Printer at the address below. The Annual Volumes of the Statutes of Nunavut and this consolidation are also available online at <http://www.justice.gov.nu.ca/english/legislation.html> but are not official statements of the law.

Any certified Bills not yet included in the Annual Volumes of the Statutes of Nunavut can be obtained through the Office of the Clerk of the Legislative Assembly.

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GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

Citation of Acts

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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UTILITY RATES REVIEW COUNCIL ACT

INTERPRETATION

Definitions

1. In this Act,

"designated utility" means a utility or a member of a class of utilities designated in the regulations; (*entreprise de service désignée*)

"Minister for the Review Council" means a member of the Executive Council who is responsible for the administration of this Act; (*ministre responsable du Conseil d'examen*)

"rate" means a price, toll or charge that applies to goods or services provided by a utility; (*taux*)

"rate structure" means the rate zones of a utility, the classes of customers of a utility, the classes of service provided by a utility, and the rules respecting the allocation of the revenue requirements among the rate zones, classes of customers and classes of service; (*structure tarifaire*)

"responsible Minister" means the member of the Executive Council who is responsible for a utility; (*ministre responsable*)

"Review Council" means the Utility Rates Review Council established by section 2; (*Conseil d'examen*)

"tariff" means a document that sets out

- (a) rates and rate structures, and
- (b) applicable terms and conditions; (*tarif*)

"utility" means any of the following that provides goods or services to the public:

- (a) a corporation that is owned or controlled by the Government of Nunavut, and to which this Act applies either by legislation or a regulation made under paragraph 20(1)(a);
- (b) a department or administrative division of the Government of Nunavut to which this Act applies either by legislation or a regulation made under paragraph 20(1)(a);
- (c) a person or organization not mentioned in paragraph (a) or (b) to which this Act applies either by legislation or a regulation made under paragraph 20(1)(a). (*entreprise de service*)

S.Nu. 2010,c.6,s.14.

REVIEW COUNCIL – GENERAL PROVISIONS

Review Council established

2. The Utility Rates Review Council is established.

Appointment

3. (1) The Review Council consists of five members appointed by the Minister for the Review Council.

Chairperson and vice-chairperson

- (1.1) The Minister for the Review Council shall designate a chairperson and vice-chairperson from among the members of the Review Council.

Term

- (2) A member of the Review Council holds office for a term of not more than three years.

Temporary members

- (3) The Minister for the Review Council, on the request of the Review Council, may appoint, in addition to the members appointed under subsection (1), no more than two temporary members of the Review Council for the purpose of dealing with a particular matter before the Review Council, and may specify the term and duties of the temporary members.

Limit on appointment

- (4) No person employed in the public service may be appointed to, or serve as a member or temporary member of, the Review Council.

Re-appointments

- (5) Members of the Review Council may be re-appointed.

Continuation in office

- (6) A member of the Review Council, other than a temporary member, whose term of office has expired continues to be a member of the Review Council until he or she is re-appointed, or until a new member is appointed to replace him or her.

Honoraria

- (7) Members and temporary members of the Review Council are entitled to be paid honoraria at the rates established by the Financial Management Board for members of boards.

Expenses

- (8) All members and temporary members of the Review Council are entitled to be reimbursed for their reasonable expenses in accordance with the rates established by the Financial Management Board for members of boards.

Executive Director

(9) The Review Council may appoint an Executive Director and fix the terms and conditions of the appointment.

Duties of Executive Director

(10) The Executive Director shall

- (a) keep a record of all proceedings of the Review Council and have custody of all of the Review Council's records and documents; and
- (b) perform any other duties that may be assigned by the Review Council.

S.Nu. 2010,c.6,s.2.

4. Repealed, S.Nu. 2010,c.6,s.3.

Quorum

5. Three members of the Review Council constitute a quorum. S.Nu. 2010,c.6,s.4.

Procedures and practices

6. (1) Subject to subsection (2), the Review Council shall determine its own procedures and practices.

Guidelines

(2) The Minister for the Review Council may issue guidelines concerning the procedures and practices of the Review Council, and the Review Council shall comply with those guidelines.

Panels

(2.1) For greater certainty, the Review Council may act in panels and the chairperson shall determine

- (a) whether to assign a matter to the Review Council or a panel; and
- (b) where a matter is assigned to a panel, the composition of the panel.

Principles

(3) The Minister for the Review Council, with the approval of the Executive Council, may issue guidelines concerning the principles the Review Council shall have regard to when determining whether rates and tariffs are fair and reasonable, and the Review Council shall comply with those guidelines.

Tabling in the Assembly

(4) The Minister for the Review Council shall

- (a) make reasonable efforts to publicize any guidelines made under this section and any amendments to the guidelines; and

- (b) table any guidelines made under this section, and any amendments to the guidelines, in the Legislative Assembly during the first sitting of the Legislative Assembly after the making of the guidelines or amendments.
S.Nu. 2010,c.6,s.5.

PURPOSE AND POWERS OF REVIEW COUNCIL

Purposes of Review Council

- 7.** The purposes of the Review Council are to
- (a) advise the responsible Minister of a designated utility concerning the imposition of rates and tariffs in accordance with sections 11 to 18;
 - (b) advise the responsible Minister of a utility other than a designated utility with regard to any questions that the responsible Minister refers to it concerning rates, tariffs and rate structures;
 - (c) advise the responsible Minister for any utility concerning any matter related to the utility that is referred to it by the responsible Minister on the advice of the Executive Council;
 - (d) advise any Minister concerning any matter related to charges for the provision of goods and services that is referred to it by the Minister on the advice of the Executive Council;
 - (e) advise the Minister responsible for the Qulliq Energy Corporation concerning applications for permission for major capital projects under section 18.1 of the *Qulliq Energy Corporation Act*.
S.Nu. 2010,c.3,s.18; S.Nu. 2010,c.6,s.13.

Powers of Review Council

- 8.** (1) In carrying out its purposes, the Review Council may
- (a) hold public and private meetings;
 - (b) retain the services of experts and advisors;
 - (c) solicit advice from the public;
 - (d) conduct meetings and mediations with utilities and concerned parties, and assist utilities and their customers in developing a consensus on contentious issues;
 - (e) require utilities and their employees to provide all information that is needed to carry out its purposes, and may require that information to be provided under oath, or by way of solemn declaration;
 - (f) generally, engage in activities that assist it in providing informed advice to the responsible Minister.

Power to demand information

(1.1) The Review Council may, whether or not a question or matter has been referred to it, require a utility to provide any relevant information that the Review Council requests.

Annual report

(2) The Review Council shall by March 31 in each year forward to the Minister for the Review Council a report showing its activities for the previous year, and the Minister for the Review Council shall lay the report before the Legislative Assembly as soon as reasonably possible. S.Nu. 2010,c.6,s.6,13.

Protection from liability

9. No proceeding may be commenced in any court against the Review Council, any member or temporary member of the Review Council, or any person acting under the direction of the Review Council or on the behalf of the Review Council, for anything done or not done in good faith in compliance or in purported compliance with this Act.

Funding of Review Council

10. The expenditures of the Review Council must be made from money appropriated by the Legislature for the purpose.

PROPOSED RATES AND TARIFFS

Imposition of rates and tariffs

11. (1) Subject to any regulations made under paragraph 20(1)(c), no designated utility may impose a rate or tariff except where an instruction is given under section 16.

Transitional

(2) Subsection (1) does not apply to a rate or tariff that was in place at the time that the designated utility became a designated utility.

Changes

(3) For greater certainty, for the purposes of this Act, an amendment to an existing rate or tariff is deemed to be the imposition of a rate or tariff. S.Nu. 2010,c.6,s.14.

Application for approval of rate or tariff

12. (1) A designated utility that desires to impose a rate or tariff shall make an application in writing to the responsible Minister for approval of the rate or tariff.

Request for advice of Review Council

(2) Within 15 days of receiving an application under subsection (1), the responsible Minister shall request the advice of the Review Council.

Notice to elected officials

(3) The responsible Minister shall give reasonable notice of a request for advice under subsection (2) to mayors and members of the Legislative Assembly who represent a municipality or constituency where the residents, in his or her opinion, are likely to be affected by the rate or tariff. S.Nu. 2010,c.6,s.7.

Interim rate or tariff

12.1. (1) Where the advice of the Review Council is requested under subsection 12(2), the Review Council may recommend the imposition of an interim rate or tariff until an instruction is given under section 16, and the Minister for the Review Council may authorize the designated utility to impose the recommended interim rate or tariff.

Overpayment

(2) Where the instruction given under section 16 results in no new rate or tariff or in the imposition of a rate or tariff that is less than the interim rate or tariff, the designated utility shall, as soon as practicable, credit every customer an amount equal to the difference between the total amount paid by the customer pursuant to the interim rate or tariff and the total amount the customer would have paid had the interim rate or tariff not been in effect. S.Nu. 2010,c.6,s.8.

Report

13. (1) The Review Council shall report to the responsible Minister its recommendation that:

- (a) the imposition of the proposed rate or tariff should be allowed;
- (b) the imposition of the proposed rate or tariff should not be allowed;
- or
- (c) another rate or tariff specified by the Review Council should be imposed.

Minor application

(1.1) Where, in the opinion of the Review Council, the application for the proposed rate or tariff is a minor application, the Review Council shall report to the responsible Minister within 90 days of receiving the responsible Minister's request for advice under subsection 12(2).

Major application

(1.2) Where, in the opinion of the Review Council, the application for the proposed rate or tariff is a major application, the Review Council shall report to the responsible Minister within 150 days of receiving the responsible Minister's request for advice under subsection 12(2).

Relevant factors

(2) In making its report, the Review Council shall have regard to whether the proposed rate or tariff is fair and reasonable, considering

- (a) the cost of providing the service, including related financing costs; and
- (b) any other factors set out in guidelines issued under section 6.

Final report

(3) Within 30 days of receiving a report made under subsection (1), the responsible Minister, if he or she thinks it appropriate to do so, may request in writing that the Review Council make a final report, within a time stipulated by the responsible Minister.

Contents of final report

(4) Where the responsible Minister has made a request under subsection (3), the Review Council shall reconsider its report, and shall make a final report that may:

- (a) make the same recommendation as in its initial report; or
- (b) any other recommendation that may be made under subsection (1).

Where no request

(5) Where the responsible Minister does not make a request under subsection (3), the report of the Review Council delivered under subsection (1) shall be its final report.

Where no report

(6) Where the Review Council does not make a report in the time mentioned in subsection (1), or a final report in a time stipulated under subsection (3), it shall be deemed to have made a report to the responsible Minister recommending that the imposition of the proposed rate or tariff be allowed. S.Nu. 2010,c.6,s.9,13.

Copy to utility

14. The Review Council shall deliver to the designated utility a copy of every final report it makes to the responsible Minister, and shall provide copies to mayors and members of the Legislative Assembly mentioned in subsection 12(3) and other interested parties on request.

Minister to consider

15. (1) The responsible Minister shall give careful consideration to every report made by the Review Council, but is not bound by it.

Reasons

(2) Where, after requesting the advice of the Executive Council referred to in subsection 16(1), the responsible Minister decides not to instruct the designated utility under subsection 16(1) to comply with the recommendation of the Review Council contained in its report, the Minister shall provide the Review Council with his or her reasons in writing for not instructing the designated utility to comply with the recommendation at the same time that the Minister instructs the designated utility under subsection 16(1). S.Nu. 2010,c.6,s.10.

Minister's decision

16. (1) Within 30 days of receiving the Review Council's report, or if a final report has been requested under subsection 13(3), within 30 days of receiving the final report, the responsible Minister, after seeking the advice of the Executive Council, may instruct the designated utility to

- (a) proceed with the imposition of the rate or tariff;
- (b) not proceed with the imposition of the rate or tariff; or
- (c) proceed with the imposition of another rate or tariff recommended by the Review Council in its report.

New review

(2) When giving an instruction under paragraph (1)(b), the responsible Minister may specify a time within which the utility may make a new application for the approval of the rate or tariff.

Deemed instruction

(3) Where the responsible Minister has not acted within the time provided for in subsection (1), the Minister shall be deemed to have instructed the designated utility to comply with the recommendation of the Review Council. S.Nu. 2010,c.6,s.11,14.

Utility to comply

17. The designated utility shall comply with any instruction given under section 16.

Notice to public - interim rate or tariff

18. (1) The Minister for the Review Council shall, in the manner the Minister considers is most likely to make the information publicly known in a culturally appropriate and effective way, take reasonable measures to notify the public of the imposition of an interim rate or tariff under subsection 12.1(1).

Notice to public - instruction

(1.1) The responsible Minister shall, in the manner the Minister considers is most likely to make the information publicly known in a culturally appropriate and effective way, take reasonable measures to notify the public of any instruction given, or deemed to have been given, under section 16.

Information to be available

(2) The Minister for the Review Council shall ensure that there is kept at an office in Nunavut copies of every request made under subsection 12(2), every final report delivered under section 14, every reason provided by a responsible Minister to the Review Council under subsection 15(2), and every instruction given under section 16, and that those copies are reasonably available to members of the public. S.Nu. 2010,c.6,s.12,14.

Variation of time

19. The responsible Minister may, after giving notice to the designated utility and the Review Council, extend any time mentioned in sections 11 through 18.

REGULATIONS

Regulations

20. (1) The Minister for the Review Council, with the approval of the Executive Council, may make regulations:

- (a) providing for utilities or classes of utilities to which this Act applies;
- (b) designating utilities or classes of utilities for the purposes of this Act;
- (c) permitting the interim imposition, where special circumstances exist, of rates and tariffs for designated utilities until an instruction is given under section 16, subject to any terms set out in the regulations;
- (d) defining terms used in this Act but not defined in this Act.

Notice

(2) A regulation may not be made under paragraph (1)(a) unless at least 30 days notice of the proposed regulation has been given in the *Nunavut Gazette*.

Note

**The following provision has been deleted for the purposes of this consolidation:
s.21 (Consequential and Other Amendments)**

REPEAL

Repeal

22. The *Public Utilities Act* is repealed.

COMING INTO FORCE

Coming into force

23. (1) Subject to subsection (2), this Act comes into force or is deemed to have come into force on March 31, 2001.

Same

(2) Section 22 comes into force or is deemed to have come into force on March 30, 2001.