

Chapter 5

AN ACT TO AMEND THE NUNAVUT POWER UTILITIES ACT AND CERTAIN OTHER ACTS IN CONSEQUENCE

(Assented to March 28, 2003)

NUNAVUT POWER UTILITIES ACT

1. **The *Nunavut Power Utilities Act* is amended by this Act.**
2. **The title is struck out and the following substituted:**

QULLIQ ENERGY CORPORATION ACT

3. **(1) Paragraph (d) of the definition of "energy" in section 1 is repealed and the following substituted:**

(d) any other form of energy approved by order of the Minister.

(2) The definition of "plant" in section 1 is repealed.

4. **Section 1.2 and the heading preceding it are repealed and the following substituted:**

PART I

QULLIQ ENERGY CORPORATION

Definitions

1.2. In this Part,

"Board" means the Board of Directors of the Corporation; (*conseil*)

"Corporation" means the corporation established by subsection 4(1); (*Société*)

"electrical energy commencement date" means a date fixed as such by order of the Commissioner in Executive Council on the recommendation of the Minister; (*date de référence pour l'énergie électrique*)

"fuel commencement date" means a date fixed as such by order of the Commissioner in Executive Council on the recommendation of the Minister; (*date de référence pour le combustible*)

"Minister" means the Minister of Energy. (*ministre*)

5. The following is added after subsection 4(2):

Name of Corporation changed

(3) On the electrical energy commencement date, the Corporation is renamed "Qulliq Energy Corporation".

Power Corporation

(4) On the electrical energy commencement date, a subsidiary of the Corporation, identified by the Board, is renamed "Nunavut Power Corporation".

Fuel Corporation

(5) On the fuel commencement date, a subsidiary of the Corporation, identified by the Board, is renamed "Qulliq Fuel Corporation".

6. Section 5 is repealed and the following substituted:

Objects of Corporation

5. (1) The objects of the Corporation are:

- (a) to generate, transform, transmit, distribute, deliver, sell and supply energy on a safe, economic, efficient and reliable basis;
- (b) to plan and provide for Nunavut's long term needs for affordable energy, taking into consideration Nunavut's desire to enhance energy self-reliance and to conserve energy and energy resources;
- (c) to purchase, store, process, distribute, deliver, sell and supply petroleum products and other fuels;
- (d) to undertake programs to maximize efficiency of fuel and other energy consumption and to provide advice and information to consumers to enable fuel and energy conservation;
- (e) subject to the *Utility Rates Review Council Act*, to set rates and tariffs for energy and services supplied by the Corporation and its subsidiaries; and
- (f) to undertake any other activity directed or authorized by order of the Commissioner in Executive Council.

Subsidiaries

(2) The Corporation may establish one or more subsidiaries to carry out its objects, if authorized to do so by order of the Commissioner in Executive Council.

Scope of order

(3) An order under subsection (2) may:

- (a) specify the constitution and functions of the subsidiary and the manner in which it will be controlled;
- (b) make conditions respecting any other matter related to the subsidiary; and
- (c) make applicable to the subsidiary, with the necessary modifications, any of the following provisions of this Act:

- (i) subsection 4(2),
- (ii) section 7,
- (iii) section 10,
- (iv) section 13,
- (v) section 14,
- (vi) section 15,
- (vii) section 33.1,
- (viii) section 38.

7. Subsection 8(4) is repealed and the following substituted:

Directions and guidelines

(4) The Board, in exercising its powers and performing its duties and the powers and duties of the Corporation under this Act and the regulations, shall act in accordance with the directions and policy guidelines that may from time to time be issued or established by the Minister or the Executive Council.

8. Subsection 14(1) is repealed and the following is substituted:

Liability

14. (1) No proceedings lie against the president, a director, an officer, an employee or any person acting for or on behalf of the Corporation, the Board, the president, a director or an officer under this Act or the regulations for any act or omission that he or she, acting in good faith, reasonably believed was required or authorized by an enactment.

9. Subsection 17(1) is repealed.

10. The following is added after section 17:

TRANSITIONAL PROVISIONS

Board continued

17.01. On the electrical energy commencement date, the Board established by subsection 8(1) is continued as the Board of Qulliq Energy Corporation.

Staff transferred to Qulliq Energy Corporation

17.02. (1) The Commissioner in Executive Council may, by order, transfer any employee within the public service to be an employee of Qulliq Energy Corporation or any subsidiary of it.

Service deemed continuous

(2) An employee who is transferred under subsection (1) or who is transferred by the Corporation to one of its subsidiaries is deemed for all purposes to serve continuously as an employee of the public service under section 13, despite the transfer.

Order transferring assets

17.03. (1) The Minister may make an order to facilitate the transfer of assets from the Government to the Corporation, on the terms and conditions set by the Minister, where the Minister is of the opinion that to do so is necessary or desirable to enable the Corporation to fulfill its objects.

Assets transferred to Corporation

(2) Where the Minister makes an order under subsection (1), any assets or rights and interests in property described in the order are deemed to become assets, rights and interests of the Corporation.

Interpretation

(3) For greater certainty, and without restricting the generality of subsection (2), it includes real, personal and any other form of property, and both registered and unregistered interests.

Liabilities not affected by transfer

(4) Despite any change of name or transfer of assets, contracts or employees by or under this Act, any proceeding in law or equity or by virtue of any enactment that had been or could have been commenced or continued against the Government of Nunavut or the Corporation before the coming into force of this Act, may be commenced or continued against the Government of Nunavut, the Corporation or any of its subsidiaries with regard to any asset, contract, franchise, record, registration, right or obligation that is transferred to the Corporation.

Time continues to run

(5) Any time that is limited in any such commencement or continuation, in relation to any matter in the proceeding, continues to run despite the transfer.

Registration

(6) Any office of the Government where interests in real, personal or any other property are registered or recorded shall, upon application by the Corporation, amend its records and issue new instruments of registration

- (a) to show that the Corporation is the holder of any interest that would have been held by the Government but for an order made under subsection (1); or
- (b) to show the name of the Corporation as changed by subsection 4(3).

Fees waived

(7) No fee is payable by the Corporation to any agency of the Government for anything done under subsection (6).

Interpretation

(8) For greater certainty, and without restricting the generality of it, subsection (6) applies to interests registered or recorded under the *Land Titles Act*, the *Motor Vehicles Act*, the *Personal Property Security Act* or the *Corporation Securities Registration Act*.

11. Section 18 is repealed.

12. Section 18.1 is repealed and the following substituted:

Definition

18.1. (1) In this section, "major capital project" means a capital project that has a total cost that exceeds \$5,000,000.

Major capital project

(2) The Corporation shall not undertake, nor permit any of its subsidiaries to undertake, a major capital project unless it applies in advance to the Minister for an order giving permission for the project.

Minister may seek advice

(3) Before responding to an application for permission made under subsection (2), the Minister may seek the advice of the Utility Rates Review Council established under the *Utility Rates Review Council Act*.

Corporation to provide information

(4) The Corporation shall provide the Minister and the Utility Rates Review Council with any information necessary for the Minister to decide whether permission should be granted.

What Minister may do

(5) The Minister may

- (a) grant permission for undertaking the major capital project, with or without conditions; or
- (b) refuse permission.

Order

(6) Permission granted by the Minister under paragraph (5)(a) shall be in the form of an order.

13. (1) The following is added after paragraph 21(b.1):

- (b.2) prepare an annual capital budget for the purchase, storage, transportation, distribution, sale and supply of petroleum products in Nunavut;

(2) Paragraph 21(d) is repealed and the following substituted:

- (d) prepare an annual long term energy supply plan, including plans for the generation, transmission and distribution of power and for the purchase, storage, transportation and distribution of petroleum products; and

14. (1) Subsection 22(1) is repealed and the following substituted:

Interruption of service

(1) Where a plant or any part of a plant malfunctions and the Corporation is unable to supply energy, the Corporation shall, with due regard for cost and circumstance,

- (a) promptly make repairs; and
- (b) pending repairs, take all reasonable steps to supply energy from other sources, if other sources are reasonably available.

(2) Subsection 22(2) is repealed and the following substituted:

Liability of Corporation and subsidiaries

(2) Subsection (1) applies to any subsidiary of the Corporation and neither the Corporation nor any of its subsidiaries are liable for any claim for financial loss or inconvenience caused to any person by reason of a failure to supply any service, where they act in accordance with subsection (1).

15. Section 30 is repealed.

16. The following is added after section 39:

Affordable Energy Fund

39.1. (1) There shall be established in the accounts of Nunavut an account to be known as the "Affordable Energy Fund".

Purpose

(2) The purpose of the Fund is to hold money appropriated to it in order, directly or indirectly, to subsidize the cost of energy or otherwise make energy more affordable.

Part of Consolidated Revenue Fund

(3) The Fund forms a part of the Consolidated Revenue Fund.

Credits to Fund

(4) There shall be credited to the Fund all money appropriated to the Fund to directly or indirectly subsidize the cost of energy or otherwise make energy more affordable.

Transfers from Fund

(5) The Minister may, by order, authorize the transfer of money from the Affordable Energy Fund to fulfill the purpose of the Fund, and may include in the order any conditions the Minister considers necessary on the use of the money.

FINANCIAL ADMINISTRATION ACT

17. Section 2 of Schedule B of the *Financial Administration Act* is repealed and the following substituted:

2. Qulliq Energy Corporation and its subsidiaries established under the *Qulliq Energy Corporation Act*.

PROPERTY ASSESSMENT AND TAXATION ACT

18. Paragraph 4(1)(g.1) of the *Property Assessment and Taxation Act* is repealed and the following substituted:

(g.1) mobile units, pipelines and works and transmission lines owned by Qulliq Energy Corporation or any of its subsidiaries;

UTILITY RATES REVIEW COUNCIL ACT

19. Paragraph 7(e) of the *Utility Rates Review Council Act* is amended by striking out "Nunavut Power Utilities Act" and substituting "Qulliq Energy Corporation Act".

COMING INTO FORCE

20. (1) This Act, other than sections 16 to 19, comes into force on April 1, 2003.

(2) Sections 16 to 19 come into force on a day or days to be fixed by order of the Commissioner in Executive Council.