



PLEASE NOTE

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For more information concerning the history of this Act, please see the [*Table of Public Acts*](#).

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CHAPTER E-4

ELECTRIC POWER ACT

WHEREAS the rates, tolls and charges for electric power should be reasonable, publicly justifiable, and not discriminatory; Preamble

AND WHEREAS the regulation of public utilities supplying electric power should be conducted in a manner that is efficient;

AND WHEREAS the system of regulation of such public utilities should allow public input whenever the rates, tolls and charges for electric power seem, in any respect, to be unreasonable or unjustly discriminatory;

1. (1) In this Act Definitions

(a) “Commission” means the Island Regulatory and Appeals Commission established under section 2 of the *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11; Commission

(b) “rate base” means the maximum valuation of assets fixed by the Commission pursuant to section 21 upon which a public utility may earn a percentage of return established by the Commission; or such other method of computing a maximum return as may be determined by the Commission; rate base

(c) “electric energy” includes electric power that is produced, transmitted, distributed or furnished by a public utility; electric energy

(d) “Minister” means a Minister of the Crown designated by the Lieutenant Governor in Council; Minister

(d.1) “Operating Fund” means the Operating Fund as defined in the *Financial Administration Act* R.S.P.E.I. 1988, Cap. F-9; Operating Fund

(d.2) “permit” means a permit issued by the Commission under subsection 2.1(2); permit

(e) “person” includes an individual, a partnership, corporation, and a municipal corporation; person

(f) “public utility” means any person and the lessees, trustees, liquidators or receivers of any person that owns, operates, manages or controls, or is incorporated for the purpose of owning, operating, managing or controlling any plant or equipment for the production, transmission, distribution or furnishing of electric energy, public utility

(i) repealed by 2003,c.3,s.2,

(ii) repealed by 2003,c.3,s.2,

either directly or indirectly, to or for the public; unless the Lieutenant Governor in Council by proclamation otherwise declares, this clause does not apply to any city or town except insofar as the city or town furnishes electric energy to customers beyond its corporate limits;

renewable energy generator	(f.1) “renewable energy generator” means a renewable energy generator as defined under the <i>Renewable Energy Act</i> R.S.P.E.I. 1988, Cap. R-12.1;
service	(g) “service” includes (i) the furnishing to or for a customer by a public utility for compensation of its equipment and facilities for the production, transmission, distribution or furnishing of electric energy for the purposes of heat, light and power, and (ii) the provision by a public utility for compensation of access to pole space for the attachment of cables or equipment used by a cable television system, but does not include the distribution or furnishing of electric energy by a renewable energy generator to a public utility.
Renewable energy generator not public utility	(2) A person who (a) is a renewable energy generator; (b) furnishes electric energy to another person who is (i) a public utility, or (ii) a customer in another province; and (c) does not furnish electric energy to any other person, is deemed, for the purpose of this Act, not to be a public utility, unless the person holds a permit. 1984, c.20, s.1; 1985, c.15, s.1; 1988, c.17, s.1; 1991, c.18, s.22; 2003, c.3, s.1,2; 2004,c.16,s.19.
Administration	2. The Minister is responsible for the administration of this Act. 1988, c.17, s.2.
Service restriction	2.1 (1) No person other than Maritime Electric Company, Limited shall provide service in the province, or in a part of the province, unless (a) the person provides the service using facilities that have been operated by a person other than Maritime Electric Company, Limited continuously, and, in the case of distribution facilities, without extension thereof, from May 1, 1994; or (b) the person holds a permit authorizing the person to provide such service in the part of the province where the service is provided.
Permit to provide service	(2) The Commission may, on application by any person, and following a hearing in respect thereof, issue a permit authorizing the holder to provide service in any area of the province if the Commission is satisfied

that the present or future public convenience and necessity of the area requires or will require the service that the applicant proposes to provide.

(3) The Commission may, when issuing a permit, include in the permit such conditions as the Commission considers to be required in the public interest. Conditions

(4) The Commission may, on its own motion or on the application of any person and following a hearing in respect thereof, cancel or amend a permit if the permit holder contravenes Cancellation or amendment of permit

- (a) a provision of this Act or the regulations; or
- (b) a condition of the permit. 2003, c.3, s.2.

2.2 (1) Maritime Electric Company, Limited shall provide service in all areas of the province, except in those areas of the province in which another person provides service in accordance with this Act. Service by Maritime Electric Company, Limited

(2) Maritime Electric Company, Limited shall not provide service Area served by other public utility

- (a) within the boundaries of the City of Summerside except to the extent that it was providing such service immediately before January 1, 2004; or
- (b) in any other area of the province in which another person is already providing service in accordance with this Act without either the consent of that person or the approval of the Commission.

(3) The Commission may, on application by a public utility, grant its approval for the public utility to provide service in an area in which another person is already providing service if the Commission is satisfied that the present or future public convenience and necessity of the area requires, or will require, the additional service, but no such approval may be granted until after a hearing has been held, of which due notice has been given to the other person. Approval by Commission

(4) The Commission may, on granting an approval under subsection (3), include such conditions as the Commission considers to be required in the public interest. Conditions

(5) The Commission may, on its own motion or on the application of any person and following a hearing in respect thereof, cancel or amend an approval granted under subsection (3) if the public utility contravenes Cancellation or amendment of approval

- (a) a provision of this Act or of the regulations; or
- (b) a condition of the approval. 2003, c.3, s.2.

3. Every public utility shall Duties of public utilities

- (a) furnish at all times such reasonably safe and adequate service and facilities for services as changing conditions require;

(b) construct its lines with poles of such height as the Commission may prescribe having regard for the nature of the line and the voltage of the electric current passing through the same. 1984, c.20, s.2.

Equipment of uniform design and standard manufacture required

4. In order to insure the ready replacement of parts and the easy installation of replacements and additions and the efficient operation of its systems, no public utility, without the approval of the Commission, shall install any equipment, fixtures or appliances which are not of a uniform design and the product of a standard manufacturer. 1984, c.20, s.3.

Declaration by public utility supplying electricity of constant voltage or frequency

5. (1) Before commencing to supply electric energy to any customer, the public utility supplying the electric energy, if required, shall declare to the customer, in writing under the hand of its officer or agent thereunto duly authorized, the constant voltage, or if from an alternating current source, the frequency at which it proposes to supply the electric energy at the customer's terminals.

Variation of voltage or frequency

(2) The variation of voltage, or, in the case of alternating currents, the frequency, at any customer's terminals, unless otherwise ordered by the Commission, shall not, under any condition of supply which the customer is to receive, nor at any time, except momentarily, exceed five per cent from the declared constant voltage frequency, whether such variation is due to the resistance of the service lines or apparatus belonging to such public utility, or to any action or effect produced by such apparatus, for which the customer cannot be shown to be responsible, or partly to a variation in voltage in the distributing mains from which the supply is taken. 1984, c.20, s.4.

Construction of lines, etc. approval of Commission

6. Repealed by 2003,c.3,s.4. 1984, c.20, s.5; 1994, c.38, s.24; 2003, c.3, s.4.

Interference with lines of another utility

7. No public utility shall place any of its poles, wires or conduits in such a way or place as to interfere with the poles, wires or conduits of any other public utility, or to interfere with or impair the efficiency of the public utility. 1984, c.20, s.6.

Conduits, poles, etc. to be shared, where

8. (1) Every public utility that has conduits, poles, wires or other equipment for furnishing electric energy to the public shall, for reasonable compensation, permit the use of the same by any other public utility furnishing electric energy to the public, or by any person providing a telephone or cable television service to the public, wherever public convenience and necessity requires the use, and when the use will not result in any detriment to the service already being rendered or in any danger to the safety of the public.

(2) In case of failure to agree upon the use or as to the compensation therefor, any public utility or other person interested may apply to the Commission, and, if, after an investigation, the Commission ascertains that the use would be in the public interest and would not result in any impairment to the service already being rendered or in any danger to the safety of the public, it may order that such use be permitted upon such terms and conditions and on the payment of such compensation as it may determine. 1984, c.20, s.7; 2003, c.3, s.5.

Failure to agree on compensation, application to Commission

9. After having commenced to render any service over any of its lines, no public utility shall discontinue such service or abandon such lines without first having obtained the consent of the Commission in writing; no such consent shall be given until after a hearing of which due notice has been given by publication in some newspaper, published in Prince Edward Island, having a general circulation in the area in which the service is being rendered. 1984, c.20, s.8.

Discontinuation of service, approval of Commission

10. Notwithstanding the provisions of any statute of this province, no public utility, except in the ordinary course of business, shall sell, assign, transfer, lease, mortgage or otherwise dispose of the whole or part of its property used in connection with its operations without first having obtained the approval of the Commission, and no person owning any public utility shall sell, assign, transfer, lease, mortgage or otherwise dispose of the public utility without that approval. 1984, c.20, s.9.

Sale or transfer of property without approval prohibited

11. (1) Notwithstanding the provision of any statute of this province no franchise or any right under any franchise to own or operate any public utility shall be assigned, transferred or leased, nor shall any contract or agreement with reference to or affecting any such franchise or right be valid or of any force or effect whatsoever, unless the assignment, transfer, lease, contract or agreement has been made with the written approval of the Commission.

Franchises and contracts, no assignment or sale without approval

(2) The approval by the Commission of any such assignment, transfer, lease, contract or agreement under this section shall not be held or construed to revive or validate any lapsed or invalid franchise or to enlarge or add to the powers and privileges contained in the grant of any franchise or to waive any forfeiture. 1984, c.20, s.10.

Approval, effect of

12. (1) No public utility shall issue stocks or shares or bonds, debentures, securities, or other evidence of indebtedness, payable in more than one year from the date thereof, unless it has first obtained approval by the Commission of the proposed issue.

Commission approval of borrowing

(2) Upon application, if the Commission approves of the purpose of the proposed issue and is satisfied that the issue is to be made in

Grant of approval

accordance with every Act or regulation relating to the issue of securities, the Commission may grant its approval of the proposed issue.

Approval subject to conditions	(3) The Commission may grant its approval under this section for the proposed issue in the amount applied for, or in any lesser amount, and subject to such conditions as it considers reasonable and necessary to impose.
Special conditions	(4) Without first obtaining the approval of the Commission <ul style="list-style-type: none"> (a) no public utility shall make any material alteration in the characteristics of its stocks or shares, or its bonds, debentures, securities, or other evidence of indebtedness as such characteristics are described by the Commission in granting its approval of the issue of those securities; and (b) no public utility that has, either with the approval of the Commission, or before the date such approval was required, issued stocks or shares, or bonds, debentures, securities, or other evidence of indebtedness payable in more than one year from the date thereof, shall increase a fixed dividend or interest rate or extend a maturity date pertaining to the issue, restrict the public utility's right to redeem the issue, or increase the premium to be paid on redemption of the issue.
Municipality not a public utility	(5) A municipality shall not be deemed to be a public utility for the purposes of this section. 1984, c.20, s.11.
Common equity	12.1 Maritime Electric Company, Limited shall, at all times, maintain not less than 40% of the capital it has invested in the power system, determined in accordance with generally accepted accounting principles, in the form of common equity. 2003, c.3, s.6.
Service rules and regulations, powers of Commission	13. (1) All rules and regulations of any public utility relating to the kind of service to be supplied to customers and the manner by which the service shall be supplied, shall be subject to approval by the Commission and after approval, those rules and regulations shall govern the service.
Commission, power to make rules	(2) Notwithstanding subsection (1), the Commission may make rules and regulations relating to the kind of service and the manner by which the service shall be supplied to customers of a public utility. 1984, c.20, s.12.
Head office in province	14. (1) Every public utility shall have its head office in the province, and shall keep therein all such books, accounts, papers or records as shall be required by the Commission to be kept.

(2) No such books, accounts, papers or records shall be removed from the province, at any time, except with the approval of the Commission and upon such terms and conditions as it may prescribe. 1984, c.20, s.13.

Books, accounts and records

15. (1) Every public utility shall make to the Commission an annual report in a form and at a time prescribed by the Commission; the report shall set forth the amount of such public utility's authorized and paid up capital, its assets and liabilities, its receipts and expenditures for the preceding year, its dividends paid or declared and such information showing its financial condition as may be required by the Commission.

Annual report to Commission

(2) The report shall be signed and sworn by an officer or other person engaged in the management of such public utility at the time of the making of the said report. 1984, c.20, s.14; 2003,c.3,s.7.

Signing annual report

16. (1) Every public utility shall at any time furnish to the Commission all such information as to its affairs which may be required by the Commission, and shall make specific answers to all specific questions submitted by the Commission.

Information provided upon request

(2) The Commission may prescribe the forms of all books, accounts, papers and records required to be kept by a public utility, and every public utility is required to keep and render its books, accounts, records and papers accurately and faithfully in the manner and form prescribed by the Commission and to comply with all directions of the Commission relating to such books, accounts, papers and records.

Form of books, accounts, etc. prescribed by Commission

(3) The Commission may cause to be prepared suitable blank forms and shall, when necessary, furnish the forms to each public utility.

Blank forms

(4) Any public utility receiving from the Commission forms with directions to complete the same shall cause the forms to be properly filled out so as to answer fully and correctly each question therein propounded and in case it is unable to answer any question it shall give a good and sufficient reason for that failure.

Completing forms upon request

(5) When required by the Commission, every public utility shall deliver to the Commission or make available to engineers, valuers or auditors, authorized or employed by it, any and all maps, profiles, contracts, reports of engineers and all documents, books, accounts, papers and records, or copies of any or all of the same, with a complete inventory of all its property, in such form as the Commission may direct.

Maps, profiles, contracts, etc. provided upon request

(6) Every public utility shall cooperate with the Commission in the work of any valuation of its property in such further particulars and to such extent as the Commission may direct or require. 1984, c.20, s.15.

Valuation of property, cooperation in

Capital budget of public utility	17. (1) Every public utility shall, at such date as the Commission determines, submit to the Commission for its approval an annual capital budget of proposed improvements or additions to the property of the public utility for the ensuing calendar year, being property of the utility employed in the provision of a service that is subject to the jurisdiction of the Commission under this Act.
Ongoing expenditures	(2) The budget shall contain an estimate of future required expenditures on any improvements or additions to the property of the public utility that will not be completed in the ensuing calendar year.
Approval of Commission	(3) The Commission, may, after reviewing the annual capital budget of a public utility and on such terms and conditions as it may prescribe, approve in whole or in part the annual capital budget of proposed improvements or additions to the property of the public utility.
Report of actual expenditures	(4) Every public utility shall submit, for the approval of the Commission, a report on its actual expenditures on improvements or additions to its property in the prior calendar year together with an explanation as to expenditures in excess of those approved under subsection (1) within sixty days of the calendar year end.
Restriction on recovery of expenditures	(4.1) No public utility shall recover, or attempt to recover, from its customers any expenditures on improvements or additions to its property that have not first been approved by the Commission under this section.
Where contribution demanded	(5) Every public utility that intends to demand from its customers a contribution towards the cost of improvements or additions to its property shall not demand such a contribution without the prior approval by the Commission of any customer contribution schedule. 1984, c.20, s.16; 2003, c.3, s.8
Penalties for non-compliance with requests	18. Any public utility failing to make and file its annual report or failing to furnish any other information as and when required or within such extended time as the Commission may allow, and any public utility failing to make a specific answer to any question within such time as the Commission may prescribe, may be ordered by the Commission to forfeit a sum not exceeding \$500 for every day it continues in default; the amount so forfeited may be recovered in the same manner as is provided for the recovery of amounts assessed under the <i>Island Regulatory and Appeals Commission Act</i> . 1984, c.20, s.17; 1991, c.18, s24; 2003, c.3, s.9.
Audits of accounts of public utilities	19. The Commission may provide for the examination and audit of all accounts of public utilities, and all items shall be allocated to the accounts in the manner prescribed by the Commission; the agents, examiners and accountants employed by the Commission shall have

authority, under the direction of the Commission, to inspect and examine all books, accounts, papers or records and memoranda kept by public utilities. 1984, c.20, s.18.

20. (1) Whenever any public utility wishes to vary any existing rates, tolls or charges, or to establish any new rates, tolls or charges for any service, it shall submit for the review and approval of the Commission a schedule of such proposed rates, tolls and charges together with and appended thereto all rules and regulations which, in any manner, relate to the rates, tolls and charges; the Commission may approve, after reviewing the schedule and rules and regulations submitted, the schedule of rates, tolls and charges and the rules and regulations either in whole or in part, or may determine and fix new rates, tolls and charges, and amend the rules and regulations, as it sees fit.

Variation of rates,
submission for
review and approval

(1.1) The Commission may, at any time and by order, require a public utility to make a submission to the Commission to justify or explain its existing rates, tolls and charges.

Submission to
justify existing rates

(1.2) After reviewing a submission of a public utility made in accordance with subsection (1.1), the Commission may, as it sees fit,

Decision of
Commission

- (a) confirm the existing rates, tolls and charges of the public utility;
- or
- (b) determine and fix new rates, tolls and charges for the public utility.

(2) The rates, tolls and charges of a public utility that are approved, or determined and fixed, by the Commission under this section are the lawful rates, tolls and charges of the public utility until altered or modified under this Act.

Rates chargeable

(3) Whenever any public utility submits for the approval of the Commission a schedule of rates, tolls and charges which, in the opinion of the Commission, either constitutes a reduction in the existing schedule of rates, tolls and charges for the time being paid by the majority of the customers of the public utility to which the proposed change applies, or which applies only to a service for which no schedule of rates, tolls and charges has previously been approved, the Commission may grant an interim approval of the schedule, and thereafter until otherwise ordered by the Commission, the schedule of rates, tolls and charges comprise the lawful rates, tolls and charges chargeable by the public utility with respect to the services therein mentioned. 1984, c.20, s.19; 1985, c.15, s.2; 2003, c.3, s.10.

Interim approval for
certain rates
changes

Rate base, determination and fixing for each utility	<p>21. (1) The Commission may determine and fix a separate rate base for each type of service furnished, rendered or supplied to the public by a public utility.</p>
Assets, method of determining	<p>(2) In establishing a rate base, the Commission shall determine the value of the assets, used and useful, of the public utility in the production, transmission, distribution and furnishing of electric energy, on the basis of the prudent original cost thereof, deducting therefrom the amount of the accrued depreciation of such property and assets as determined by the Commission.</p>
Rate base, matters which may be included, excluded	<p>(3) Without prejudice to subsection (2), in establishing a rate base the Commission may</p> <p>(a) include all or any of</p> <p style="padding-left: 40px;">(i) an allowance for necessary working capital, and</p> <p style="padding-left: 40px;">(ii) any other fair and reasonable expenditure which the Commission thinks proper and basic to the public utility's operation;</p> <p>(b) exclude all or any of</p> <p style="padding-left: 40px;">(i) contributions in aid of construction or acquisition of property or assets,</p> <p style="padding-left: 40px;">(ii) deferred income taxes,</p> <p style="padding-left: 40px;">(iii) any other expenditure which the Commission considers it fair and just to exclude.</p>
Depreciation, annual and accrued	<p>(4) For the purpose of this section the annual and accrued depreciation shall be calculated by the straight line method, so called, or such other method as the Commission may prescribe. 1984, c.20, s.20; 2003, c.3, s.11.</p>
Restriction on rates charged and collected	<p>21.1 (1) A public utility shall not charge, and shall not be entitled to collect with respect to the provision of service, any rate, toll or charge other than one that is approved, determined and fixed, established or otherwise required to be charged by the Commission under this Act.</p>
Publication	<p>(2) A public utility shall ensure that the rates, tolls and charges which the Commission approves, determines and fixes or establishes for, or requires to be charged under this Act by, the public utility are published, or otherwise made available for public inspection in a form and manner specified by the Commission. 2003, c.3, s.12.</p>
Amortization of sums in rate base	<p>22. The Commission may direct that a public utility shall make certain provision for the amortization of the sums allowed in a rate base for organization expenses and expenses of valuations, and may direct that the sum required annually for the amortization shall be charged as an operating expense. 1984, c.20, s.21.</p>

23. Every public utility shall carry a proper and adequate depreciation account when the Commission, after investigation, determines that the depreciation account can be reasonably required; the Commission shall ascertain and determine what are proper and adequate rates of depreciation of the several classes of property of each public utility. 1984, c.20, s.22; 2003, c.3, s.13.

Depreciation accounts, utilities must carry

24. (1) Every public utility shall be entitled to earn annually such return as the Commission considers just and reasonable, computed by using the rate base as fixed and determined by the Commission for each type of service furnished, rendered or supplied by such public utility, and the return shall be in addition to the expenses as the Commission may allow as reasonable and prudent and properly chargeable to operating account, and to all just allowances made by the Commission according to this Act and the rules and regulations made by the Commission hereunder.

Return on investment, utility authorized to earn certain, computation of

(2) The Commission shall allow a public utility to recover, in addition to the return the public utility is entitled to earn annually under subsection (1), any expenditures that the Commission is satisfied were reasonably and prudently incurred by the public utility for the purposes of complying with requirements of the *Renewable Energy Act*. 1984, c.20, s.23; 2004,c.16,s.19.

Allowance of expenditures required under *Renewable Energy Act*

25. The Commission may at any time, with or without the assistance of engineers, accountants, valuers and others, inquire into the extent, condition and value of the physical assets of any public utility, and may make rules and regulations to facilitate such inquiries to be made, and the rules and regulations so made shall be binding on all public utilities. 1984, c.20, s.24.

Value of assets of a public utility, inquiry,

26. (1) The Commission has general supervision of all public utilities and may make such regulations and orders respecting equipment, appliances, safety devices, extension of works or systems, filing of schedules of rates, reporting, and other matters as it considers necessary or advisable for the safety, convenience, or service of the public, or for the proper carrying out of this Act or of any contract, charter, or franchise involving the use of public property or rights.

General supervision of utilities

(2) Subject to this Act, the Commission may make regulations requiring a public utility to conduct its operations in such a manner that it does not unnecessarily interfere with, or cause unnecessary damage or inconvenience to, the public.

Regulations

(3) For the purposes of its supervision of public utilities and to enable the Commission to fulfil its functions, the Commission may make such

Examination and inquiries

examinations and conduct such inquiries as are necessary to keep itself informed respecting

- (a) the manner in which the business of a public utility is conducted;
- (b) compliance by public utilities with the provisions of this Act and the regulations;
- (b.1) the level and appropriateness of the energy efficiency measures and initiatives of a public utility; and
- (c) any other matter or thing within the jurisdiction of the Commission.

Inquiry directed by
Lieutenant
Governor in
Council

(4) The Lieutenant Governor in Council may direct the Commission to inquire into, and report on, any matter related to the provision of service by a public utility. 1984, c.20, s.25; 2003, c.3, s.14.

Public hearing.
Commission may
order

27. Except as otherwise provided in this Act, the Commission may order a public hearing in respect of any matter that is within its jurisdiction under this Act, and notice of the hearing shall be served on the public utility and, unless otherwise ordered by the Commission, shall be published in a newspaper published in Prince Edward Island having a general circulation in the area to be affected by such matter at least ten days before the date fixed for such public hearing. 1984, c.20, s.26.

Complaints against
public utility,
investigation by
Commission

28. (1) Upon a complaint made in writing to the Commission, against any public utility, by any municipal corporation or by any five persons, firms or corporations, that any of the rates, tolls, charges, or schedules, whether fixed by or the subject of a signed contract or agreement or otherwise, are, in any respect, unreasonable or unjustly discriminatory, or that any regulation, measurement, practice or act affecting or relating to the transmission, delivery or furnishing of electric energy or any service in connection therewith is, in any respect, unreasonable, insufficient or unjustly discriminatory or that the service is inadequate or unobtainable, the Commission shall make an investigation, and may order such rates, tolls, charges or schedules, modified or altered, and may make an order as to the modification or change of the regulation, measurement, practice or acts, and may order, on such terms and subject to such conditions as may seem just, that the public utility furnish reasonably adequate service and facilities, and make such alterations, extensions and additions as may be required; but before proceeding to make an investigation, the Commission shall require proof that a copy of the said complaint together with a notice of the time and place of such investigation has been served on the public utility at least fifteen days before the date fixed for the investigation, and, if the public utility is unable or unwilling to satisfy the complaint, it may within eight days after the service of the complaint file its answer with the Commission, and the public utility

shall be given an opportunity of being heard and of adducing evidence at the investigation.

(2) If it is made to appear to the Commission that the time given is insufficient for the proper preparation of the case of any party, the Commission may order the postponement of the investigation for a reasonable time.

Postponement of investigation

(3) No order under subsection (1) shall be made without a public hearing or inquiry as aforesaid, nor shall an order be issued by the Commission without reasonable notice to all parties to settle the minutes thereof.

Public hearing necessary

(4) The Commission, when called upon to institute any investigation, may in its discretion, require from the complainants the deposit of a reasonable amount of money or other security to cover the costs of the investigation; the money shall be dealt with as the Commission may direct should the decision be given against the complainants. 1984, c.20, s.27; 2003, c.3, s.15.

Deposit by complainants

29. (1) When the Commission believes that any of the grounds mentioned in section 28 exist for complaint by any person against any public utility, or that an investigation of any matter relating to any public utility should, for any reason, be made, it may, on its own motion, summarily investigate the same with or without notice.

Summary investigation by Commission

(2) If, after the making of a summary investigation, the Commission is satisfied that sufficient grounds exist to warrant a formal hearing being ordered as to the matter so investigated, it shall notify the public utility of the matter under investigation; after the notice has been given the Commission may fix a time and place for a formal hearing and investigation of such matter.

Formal hearing after summary investigation

(3) Notice of the time and place of the formal hearing and investigation shall be given to the public utility concerned and to such other persons as the Commission shall consider necessary at least fifteen days before the date fixed for such hearing and investigation, and thereupon the Commission may investigate the matters dealt with in its summary investigation and all matters connected therewith or in any way relating thereto, and may call witnesses and hear evidence respecting the matters under investigation.

Notice of formal hearing and jurisdiction of hearing

(4) If, upon any investigation made under this section, the Commission finds that any regulation or act, or any service to any customer of a public utility is unjust, unreasonable, insufficient, preferential, unjustly discriminatory or unobtainable or contrary to this Act, or if it finds that adequate service is not being supplied by such public utility to such

Orders permissible by Commission after formal hearing

customer, the Commission may determine and order substituted therefor such other regulations, acts or service as it may consider just and reasonable; and may order that service to such customer be supplied by another public utility. 1984, c.20, s.28; 2003, c.3, s.16.

Powers of Commission relating to rates, tolls, etc.

30. (1) If, upon any investigation, the rates, tolls, charges or schedules, whether fixed by or the subject of a signed contract or agreement or otherwise, are found to be unjust, unreasonable, insufficient or unjustly discriminatory, or to be preferential or otherwise in violation of this Act, the Commission may cancel the rates, tolls, charges or schedules, and declare void all contracts or agreements in writing or otherwise touching the same, and may determine and fix by order and order substituted therefor such other rates, tolls, charges and schedules as to the Commission may seem just and reasonable.

Extension of lines, order for

(2) Upon any investigation for the purpose of determining upon and requiring any reasonable extension of lines or of a service that, in the opinion of the Commission, will become compensatory within a reasonable time, the Commission may order the extension to be made upon such terms and conditions as it may consider just. 1984, c.20, s.29.

Expenses re investigations, Commission may order utility to pay

31. (1) When an inquiry or investigation is made under this Act, upon complaint or otherwise, the Commission may order that all expenses in connection therewith, including costs and expenses of counsel, engineers, valuers, auditors, clerks, stenographers and other assistants, retained and employed by the Commission, as well as the expenses of the Commissioners while employed in and about the making of the inquiry or investigation, shall be paid by the public utility whose affairs are being inquired into or whose assets or property are the subject of such inquiry or investigation; and the Commission may in its discretion order that the payments by the public utility be entered as current operating expenses or as a charge to capital account or to be amortized and retired over a period of time; but if as a result of the inquiry or investigation it is found that the rates charged by the public utility have been excessive or that the inquiry or investigation has been rendered necessary by some act, neglect or omission on the part of the public utility, the Commission may order that the payments by the public utility shall be deducted from the amount which, otherwise, the public utility would be entitled to earn as a just and reasonable return upon its undertaking.

Recovery of amounts payable

(2) Any amount ordered to be paid by a public utility under this section may be recovered in the same manner as is provided for the recovery of amounts assessed under the *Island Regulatory and Appeals Commission Act*. 1984, c.20, s.30; 1992, c.18.

32. (1) If it is brought to the attention of the Commission that the supply of electric energy or any service rendered by any public utility has been interrupted or is likely to be interrupted to such an extent as to be likely to cause hardship or inconvenience to consumers of electricity or other customers of any public utility, the Commission may investigate the matter summarily, and, if on the making of any such investigation it is of the opinion that the provisions of this Act are inadequate to effectively deal with the matter, it shall forthwith certify its findings to the Lieutenant Governor in Council, and the Lieutenant Governor in Council may thereupon declare that a condition of emergency exists with respect to the supply of electric energy by any or all public utilities or with respect to any other service rendered by any or all public utilities.

Interruption of electric energy or any service, summary investigation, declaration of emergency condition

(2) Where a declaration is made and notwithstanding any provision of this Act, the Commission may investigate the matter according to such procedure as it may determine; the Lieutenant Governor in Council may, without a certificate from the Commission, declare that a condition of emergency exists, and the making of any such declaration shall confer similar powers on the Commission as if made upon a certificate of the Commission; the Lieutenant Governor in Council may likewise declare that a condition of emergency no longer exists.

Investigation of emergency condition

(3) If after an investigation carried out under subsections (1) and (2) it appears to the Commission that any public utility is capable of adequately supplying the quantity of electric energy reasonably required, or of efficiently supplying such other service, the Commission may make an order, on such terms as it sees fit, compelling the public utility to supply electric energy or provide such other service in such quantities or in such manner as may be required.

Order compelling utility to supply service

(4) If after an investigation it appears to the Commission that any public utility is incapable of supplying electric energy or providing any other service demanded to the extent required by the customers of the public utility, the Commission may order, in any manner, that the quantity of electricity or other service available shall be so distributed as to cause the least inconvenience and hardship to the customers of the public utility.

Utility incapable of supplying energy, powers of Commission

(5) Every order of the Commission made under this section shall have the force of law, and any public utility that fails to comply with an order shall incur the penalties prescribed by section 36.

Order made under Act, force of law

(6) If any person other than a public utility fails to comply with any order of the Commission made under this section he is liable to the penalty prescribed by section 36, and the Commission may also order the public utility supplying the electric energy or rendering such other

Failure to comply with order by person other than utility

service to deprive the person of the supply of electric energy or other service in such manner as the Commission may determine; every public utility is hereby authorized and empowered, by its servants and agents, to do and perform all acts necessary to carry out any order.

Service of orders by newspaper	(7) Every order of the Commission made under this section is deemed to have been duly served upon every public utility or person affected thereby on the day following the day on which a copy of the order has been published in a newspaper in Prince Edward Island having a general circulation in the area in which the public utility operates or the other person operates or lives.
Appeals, effect on order	(8) No appeal against any order of the Commission made under this section shall be deemed to operate as a stay of the execution of the order unless the Appeal Division so orders. 1984, c.20, s.31.
Soliciting, accepting or receiving rebates for services, prohibition against	33. (1) Subject to this Act no person shall knowingly solicit, accept or receive any rebate, concession or discrimination in respect to any service or affecting or relating to any public utility whereby any service is, by any device whatsoever, or otherwise, rendered free or at a less rate than named in the schedules in force, as provided herein, or whereby any service or advantage is received other than as is herein specified.
Government rebate programs	(2) Subsection (2) does not preclude the provision, through any program administered by the provincial government, of any grant, rebate, concession or discrimination in relation to electrical rates or having the effect of reducing electrical rates otherwise payable by any customer or class of customers, including the provincial or federal government.
Exclusion of jurisdiction of Commission	(3) Any grant, rebate or concession made pursuant to subsection (2) is not subject to the jurisdiction of the Commission.
Declaration	(4) For the avoidance of doubt it is declared that any payment pursuant to a program referred to in subsection (2) does not, for the purposes of this Act, render any rate, charge, toll or service unjust, unreasonable, insufficient, preferential or unjustly discriminatory. 1982, c.20, s.32; 1986, c.3, s.1
Non-payment of amount due, power of utility	34. (1) If any person supplied with electric energy by any public utility neglects or refuses to pay the amount due for the same, or for the rent of the meter or other articles hired by him, the public utility may discontinue the service and stop the supply; in that case the officers or agents of the public utility may, after forty-eight hours notice, enter the premises of that person, between the hours of nine o'clock in the forenoon and four o'clock in the afternoon, and separate and take away the meter, appliance or other property belonging to the public utility, and

disconnect any wires or fitting or other works, whether its property or not, from the main wires of the public utility.

(2) If a customer of any public utility installs or connects or is desirous of installing or connecting any service appliance or equipment which in the opinion of the public utility is or may be detrimental to the service being rendered, the matter may be referred to the Commission by either party and the Commission may make such order thereon as appears reasonable and just. 1984, c.20, s.33; 2003, c.3, s.17.

Installation of
appliance, etc. by
customer
detrimental to
service

35. Except as provided by this Act or the *Electrical Inspection Act* R.S.P.E.I. 1988, Cap. E-3, no person who, at the date of the coming into force of this section, is in actual receipt of the service of electric energy from a public utility, shall at any time after that date have that service from the public utility disconnected, or terminated without his consent. 1984, c.20, s.34; 2003, c.3, s.18.

Rights of consumer
to service from
public utility

36. (1) Every public utility or person who

Penalty

(a) contravenes or violates any provision of this Act or the regulations for which no penalty is provided; or

(b) fails, neglects, omits or refuses to do any act or thing required of that public utility or person by any order of the Commission made under this Act,

is liable to a penalty imposed by order of the Commission of not more than \$10,000.

(2) Each day during which a prohibited activity subject to a penalty pursuant to subsection (1) is continued gives rise to a separate liability to a penalty imposed by order of the Commission not exceeding \$500 for each day.

Separate daily
liability

(3) If any public utility or person fails to pay any penalty imposed by the Commission within the time fixed for the payment of the penalty, the Commission may make application, without notice to the public utility or person, to a judge of the Supreme Court for an order that judgment for the amount of the penalty or unpaid portion of the penalty may be entered in the Supreme Court against the public utility or person.

Application to
Supreme Court

(4) A judge of the Supreme Court shall, on application by the Commission under subsection (3), grant the order referred to in that subsection on proof by affidavit of the order of the Commission imposing the penalty and the amount of the penalty remaining unpaid.

Order

(5) On any judgment entered under this section, execution may be issued as on any other final judgment of the Supreme Court. 1984, c.20, s.35; 2003, c.3, s.19.

Execution

- Consolidated Fund **37.** Every penalty or fine imposed or collected under the provisions of this Act shall go to the Operating Fund. 1984, c.20, s.36; 1997,c.20,s.3.
- Public safety, Commission may make orders to protect **38.** (1) If it is made to appear to the Commission that because of the faulty construction of the plant or lines of any public utility or other person, or the faulty installation of the equipment of the public utility or other person, or because of the neglect of any public utility or other person to maintain or repair its or his plant, lines or equipment, life or property is or may become endangered, the Commission may order such action to be taken with respect to the plant, lines or equipment of the public utility or other person as it may consider necessary for the public safety.
- Power to enforce order (2) The person to whom an order made under subsection (1) is directed, with the assistance of such other persons as he may require, may enter upon the premises of any such public utility or other person and carry out the terms of such order. 1984, c.20, s.37.
- Interruption of service avoidable, penalties **39.** (1) If the supply of electric energy from any public utility to its customers is interrupted for any continuous period exceeding fifteen minutes, except in any case approved by the Commission, and the Commission upon investigation, finds that the interruption of supply or service was due to circumstances which the public utility, by the exercise of reasonable care and foresight, could have avoided, the Commission may impose upon the public utility a penalty not exceeding \$5,000 for each interruption, and if the penalty is not paid within fifteen days after the imposition thereof, the Commission may proceed to collect the penalty in the manner prescribed for the recovery of amounts assessed under the *Island Regulatory and Appeals Commission Act*; but the imposition of any penalty by the Commission shall not be deemed to affect any right of action which any person might have for loss or damage sustained by reason of the interruption of the supply of electric energy.
- Burden of proof (2) In every investigation under subsection (1) the burden of proving that the interruption was not due to circumstances which the public utility, by the exercise of reasonable care and foresight, might have avoided, shall be on such public utility. 1984, c.20, s.38.
- Moving buildings across wires or lines **40.** Notwithstanding any statute or law of the province, if any person desires to move any building or other object across the wires or lines of wires or cables of a public utility, that person may apply to the Commission for an order respecting the cutting of the wires or lines of wires or cables; and the Commission, after considering the application, but without affecting the provisions of the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5, may make such order respecting the cutting of

such wires, lines of wires or cables at such times and in such manner and upon such terms as to costs or otherwise as the Commission may determine; any public utility failing to comply with such order shall incur the penalties provided by section 36. 1984, c.20, s.39.

41. If, in any case, the Commission finds that it is in the public interest for a public utility to construct any line or erect poles on private property and that no agreement can be reached between such public utility and the owner of such private property, the Commission may order, on such terms and conditions and subject to the payment of such compensation, if any, as may seem just, that the public utility be permitted to construct the line or erect the poles and remove any obstruction on the private property and thereafter be permitted to repair or rebuild the same, but at no time doing unnecessary damage. 1984, c.20, s.40.

Erection of poles on private property where no agreement

42. (1) Notwithstanding anything in any statute of this province, when a public utility, by its Act of incorporation or otherwise, is authorized and empowered to do any act which causes or may cause damage to the property of any person, and no agreement can be reached as to the amount of damages caused by any such act, either party may refer the matter to the Commission, and the Commission may proceed to investigate such matter, after notice to the parties, and may award damages, together with reasonable costs.

Compensation, referral to Commission to fix

(2) Subject to the right of appeal to the Appeal Division provided by the *Island Regulatory and Appeals Commission Act*, the decision or award made under subsection (1) shall be binding upon both the claimant and the public utility.

Decision or award binding upon

(3) The Supreme Court or a judge thereof, on application, may order that any award or decision of the Commission under this section shall be entered as a judgment of the Supreme Court. 1984, c.20, s.41.

Judgment of the Supreme Court

43. Whenever it is necessary for the erection, construction, operation or maintenance of the plant, lines or other installations or works of a public utility, that the public utility be vested with lands or any interest therein, or any rights, privileges or easements in respect thereof, the public utility may by its servants or agents, with the written permission of the Commission to be applied for without notice, enter upon the lands for the purpose of preliminary surveys and examinations without liability other than for actual damage, and if after the survey and examination, no agreement can be made for its purchase, the public utility may acquire it in the following manner:

Preliminary surveys, utility may enter land without permission and acquisition of land by utility

(a) the public utility may apply by petition to the Commission showing the situation of the land affected, the description thereof by metes and bounds, the names of the owners or occupiers thereof, and

any encumbrances thereon that may be known to the public utility, the property, rights, easements or privileges sought to be expropriated and the amount which the public utility has offered to pay the person owning or occupying the lands;

(b) upon the presentation of a petition, the Commission shall forthwith at the expense of the public utility, publish the same in the Gazette, and in a newspaper published in the Province of Prince Edward Island in two weekly issues thereof, and in the same issue of the Gazette, and the newspaper in which the Commission publishes the petition, the Commission shall publish a notice, that at the time and place therein named, which shall not be earlier than thirty days after the date of such publication and notice, the Commission will hear any and all objections to said proposed expropriation and a copy of such petition and notice shall forthwith be served on the owners of the lands affected, unless the service is dispensed with as hereinafter provided, and the Commission, for the purpose of the hearing, may summon before it any persons, and may require them to give evidence on oath, and to produce such documents or things as the Commission considers requisite;

(c) at the time and place so named, the Commission shall hear all parties interested and take such evidence as may be adduced, and, if satisfied that the property, rights, easements or privileges proposed to be expropriated are necessary for any of the purposes mentioned in this section, and are not more extensive than are reasonably necessary, it shall thereupon by order declare the same, or such portion thereof as may be found reasonably necessary, to be vested in the public utility, in fee simple, or in such other estate as may be sought by the said petition, or as may be considered advisable by the Commission, free from encumbrances, subject to the payment of damages as hereinafter provided for;

(d) upon the making of the order, the public utility shall cause a certified copy thereof to be filed in the office of the Registrar of Deeds for each county in which the lands or any part thereof are situated, together with a plan of the lands affected by the order, and a description of them;

(e) before the fixing of the time and place for hearing as aforesaid, the Commission may require the public utility to deposit with it a sum not exceeding \$2,500, to reimburse any expenditure made by the owner or occupier on account of the petition, and in case the application for the order mentioned in clause (c) is refused, then the Commission may order that a reasonable sum may be allowed out of the deposit to defray the expenses of the owner or occupier of the property sought to be expropriated;

(f) the Commission shall, without delay, proceed to assess the damages for said property so expropriated and on payment thereof to the owner or occupier, the public utility shall have a title in fee simple and clear of encumbrances to the property so expropriated;

(g) where any property so sought to be expropriated is found to be encumbered by mortgage, judgment or other encumbrance, or where the title thereof is in dispute, payment of the damages to the prothonotary of the Supreme Court shall have the same effect as payment to the owner or occupier, and a judge of the Supreme Court, on the application of any person interested therein, may order the payment out of court of the damages to the person entitled thereto;

(h) if the petitioning public utility is unable to ascertain the name of the owner of any property, rights, easements or privileges sought to be expropriated under this section, or if the owner is absent from the province, or is a mentally incompetent person or infant, or if the ownership is in dispute, the Commission may order that the publication of any notice in accordance with this section is sufficient service of the same and that the notice need not state the name or names of the owner. 1984, c.20, s.42; 2003, c.3, s.20.

44. No right of entry, possession, expropriation, or otherwise under section 43 is exercisable by any public utility in reference to, or in respect of any lands or interest therein belonging to any person being another public utility within the meaning of the *Island Regulatory and Appeals Commission Act*. 1984, c.20, s.43; 2003, c.3, s.21.

Railway and telegraph companies exempt

45. The rights and powers granted to any public utility by section 43 are in addition to, and not in substitution for the rights and powers possessed by that public utility under any other Act. 1984, c.20, s.44.

Powers under section 45 additional

46. (1) The Lieutenant Governor in Council may by regulation exempt the City of Summerside electric utility from this Act, or any of its provisions, and may set the terms and conditions of such exemption.

Summerside electric utility

(2) Where regulations are made pursuant to subsection (1),

(a) notwithstanding sections 6 and 15 of the *Island Regulatory and Appeals Commission Act*, the Commission shall not issue an assessment to the City of Summerside electric utility, and the Lieutenant Governor in Council shall determine the annual assessment to be paid by the City of Summerside electric utility to the Commission, which shall not exceed twenty thousand dollars;

(b) the only decisions and orders of the Commission issued before the regulations come into force that continue to impose obligations on the City of Summerside electric utility are those which, if issued after the regulations come into force, would be within the

Effect of regulations on assessments and Commission decisions respecting the utility

jurisdiction of the Commission expressly conferred by the provisions of the Act, and which continue to apply to the City of Summerside electric utility. 1994,c.38,s.24; 1995,c.9,s.1; 2003, c.3, s.22.

- Transitional rates and terms of service **47.** (1) On and after January 1, 2004, Maritime Electric Company, Limited shall provide service in the province at the rates, tolls and charges, and on the terms and conditions of service, that were established and in effect under the former Act and the former regulations immediately before January 1, 2004 until such time as those rates, tolls and charges, and those terms and conditions of service, are altered or modified under this Act.
- Annual report (2) Prior to March 1, 2004, Maritime Electric Company, Limited shall provide an annual report to the Commission for the calendar year beginning January 1, 2003 that complies with the requirements of section 15.
- Submission of proposed rates, tolls and charges (3) Prior to May 1, 2004, Maritime Electric Company, Limited shall make a submission to the Commission under section 20 for the review and approval of its rates, tolls and charges.
- Recovery of deferred costs, interest and unamortized expenses (4) When approving or determining and fixing the rates, tolls and charges of Maritime Electric Company, Limited pursuant to a submission made under section 20 in accordance with subsection (3), or in accordance with any later application made in accordance with section 20, the Commission shall allow Maritime Electric Company, Limited
- (a) to recover, over such period of time and on such terms and conditions as the Commission considers just and reasonable,
 - (i) the deferred costs that Maritime Electric Company, Limited would have been able to recover under the former Act and the former regulations,
 - (ii) the unamortized portion of any deferred cost incurred before January 1, 2004 by Maritime Electric Company, Limited in respect of any power purchase agreement, and
 - (iii) a reasonable return on the unrecovered deferred costs referred to in subclauses (i) and (ii); and
 - (b) to recover, as an annual expense, the amounts payable by Maritime Electric Company, Limited pursuant to any power purchase agreement Maritime Electric Company, Limited has entered into before January 1, 2004 that continues in force on and after that date.

(5) On and after January 1, 2004, the Commission shall be deemed to have approved under this Act anything that was lawfully done by Maritime Electric Company, Limited during the period beginning on April 30, 1994 and ending on December 31, 2003 that would, if done on or after January 1, 2004, require the prior approval of the Commission under section 10, 12 or 17.

Deemed approval of property dispositions, share issuances and capital expenditures

(6) On and after January 1, 2004, the Commission shall be deemed to have ascertained and determined pursuant to section 23

Depreciation

(a) that the depreciation account of Maritime Electric Company, Limited as of December 31, 2003 is proper and adequate; and

(b) that the rates of depreciation used by Maritime Electric Company, Limited in respect of the several classes of its property during the period beginning on April 30, 1994 and ending on December 31, 2003 are proper and adequate,

unless the Commission determines, before May 1, 2004, that the depreciation account as of December 31, 2003, or any rate of depreciation used during the period referred to in clause (b), was not in conformity with industry standards or generally accepted accounting principles.

(7) For greater certainty, section 33 does not apply in respect of any contract for service that

Application of section 33

(a) was entered into before January 1, 2004 by Maritime Electric Company, Limited and any customer under section 12 of the former Act; and

(b) expires on or after January 1, 2004.

(8) A contract for service referred in subsection (7) may not be renewed, and no party to the contract shall renew it, after January 1, 2004.

Restriction on renewal of contract

(9) In this section

Definitions

(a) “former Act” means the *Maritime Electric Company Limited Regulation Act* R.S.P.E.I. 1988, Cap. M-1.2;

former Act

(b) “former regulations” means the *Maritime Electric Company Limited Regulation Act* Base Rate Adjustment Regulations (EC608/01). 2003, c.3, s.23.

former regulations