



Province of Alberta

# **SMALL POWER RESEARCH AND DEVELOPMENT ACT**

Revised Statutes of Alberta 2000  
Chapter S-9

Current as of June 17, 2013

Office Consolidation

© Published by Alberta Queen's Printer

Alberta Queen's Printer  
5<sup>th</sup> Floor, Park Plaza  
10611 - 98 Avenue  
Edmonton, AB T5K 2P7  
Phone: 780-427-4952  
Fax: 780-452-0668

E-mail: [qp@gov.ab.ca](mailto:qp@gov.ab.ca)  
Shop on-line at [www.qp.alberta.ca](http://www.qp.alberta.ca)

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## Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

## Regulations

The following is a list of the regulations made under the *Small Power Research and Development Act* that are filed as Alberta Regulations under the Regulations Act

	Alta. Reg.	Amendments
<b>Small Power Research and Development Act</b>		
Revenue Adjustment .....	358/94	179/2000, 113/2003
Small Power Research and Development .....	336/88	292/91, 221/92,
NOTE: AR 89/2013 comes into force on the coming into force of s3 of the Responsible Energy Development Act		251/2001, 254/2007, 89/2013

# **SMALL POWER RESEARCH AND DEVELOPMENT ACT**

## **Chapter S-9**

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HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

### **Definitions**

**1** In this Act,

- (a) “eligible power production facility” means, subject to section 2, a power generator or generators that constitute a single power production facility that
  - (i) produces electric energy from solar, wind, hydro, geothermal, biomass or peat resources,
  - (ii) has a nameplate capacity of
    - (A) not more than 2.5 MW, or
    - (B) more than 2.5 MW and is a pilot project within the meaning of the regulations, and
  - (iii) meets the other eligibility requirements established in or pursuant to the regulations;

- (b) “maximum program capacity” means the maximum program capacity established in or pursuant to the regulations;
- (c) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (d) “public utility” means a public utility designated in the regulations as a public utility to which this Act applies;
- (e) “small power producer” means the owner of an eligible power production facility;
- (f) “small power production contract” means a contract between a public utility and a small power producer whereby the public utility agrees to purchase electric energy produced by the small power producer’s eligible power production facility;
- (g) “supplementary fuel” means fossil fuel or waste energy derived from fossil fuel.

1988 cS-13.75 s1;1990 c37 s2

**Use of supplementary fuel**

**2(1)** A power production facility that produces electric energy from peat or biomass does not cease to be an eligible power production facility by reason only that it uses a supplementary fuel in the production of electric energy if it uses that fuel in the amount and in the manner permitted by the regulations.

**(2)** Notwithstanding section 4, where a small power production facility uses more supplementary fuel in the production of electric energy than is permitted by the regulations, the price paid for the power produced by that excess amount is 50% of the price determined in accordance with section 4(1).

1990 c37 s3

**Allocation of capacity**

**3(1)** The Minister may, in accordance with this Act and the regulations, allocate to an eligible power production facility capacity from the maximum program capacity.

**(2)** The Minister may not make a final allocation under subsection (1) unless the Minister is satisfied that

- (a) the small power producer

- (i) has entered into a small power production contract with the public utility in whose service area the eligible power production facility is or will be located, and
    - (ii) has complied or will comply with the requirements of all applicable enactments relative to the construction, operation and connection of the eligible power production facility,
  - and
  - (b) all other preconditions and requirements established in or pursuant to the regulations have been satisfied.
- (3) The Minister may not make final allocations under subsection (1) in respect of more than 9 pilot projects.
- (4) The Minister may not make a final allocation under subsection (1) after
- (a) the date on which the aggregate nameplate capacities of eligible power production facilities to which allocations have previously been made under subsection (1) exceed the maximum program capacity, or
  - (b) a date established in or pursuant to the regulations,
- whichever occurs first.

1988 cS-13.75 s2;1990 c37 s4

**Small power production contract****4(1)** A small power production contract must

- (a) be stated to be for a term of years established in or pursuant to the regulations,
- (b) provide that the public utility is to pay to the small power producer in respect of power delivered under the contract for the first 10 years of the contract an amount per kilowatt hour determined by one of the following options:
  - (i) \$0.052 per kilowatt hour for power delivered up to December 31, 1994 and \$0.06 per kilowatt hour for power delivered in subsequent years;
  - (ii) \$0.0464 per kilowatt hour for power delivered in 1990 and, for power delivered in 1991 and subsequent years, a price per kilowatt hour based on \$0.0464 and adjusted annually for inflation in the manner prescribed in the regulations,

- (c) provide that the small power producer shall bear all costs up to and including the point of the connection with the public utility's facilities, which costs shall include the cost of any transmission facilities that may be required in order to effect the connection, the cost of metering the delivered power and the cost of any modifications of the public utility's facilities that may be required in order to utilize the delivered power, and
  - (d) be in a form that is satisfactory to the Alberta Utilities Commission.
- (2) The small power producer shall, at the time the small power production contract is entered into, choose which price determination option under subsection (1)(b) will apply to the contract, and that choice may not be changed.
- (3) Where the term of a small power production contract is greater than 10 years, the Alberta Utilities Commission shall, during the 10th year of the contract, review and adjust the price payable for power delivered under the contract so that the price payable for the 11th year and subsequent years of the contract will be the greater of
- (a) the utility avoided cost, and
  - (b) the price that would be payable during the 10th year of the contract, if determined under subsection (1)(b)(ii).
- (4) If a small power producer and the appropriate public utility cannot agree on the terms of a small power production contract, either party may refer the matter to the Alberta Utilities Commission, and the Commission shall determine the matters in question.
- (5) A public utility shall forthwith file with the Alberta Utilities Commission a copy of every small power production contract it enters into.

RSA 2000 cS-9 s4;2007 cA-37.2 s82(28)

**Alberta Utilities Commission**

**5(1)** Where the Alberta Utilities Commission is considering an application under section 9 10, 11 or 18 of the *Hydro and Electric Energy Act* in respect of an eligible power production facility for which an application for an allocation of capacity under this Act has been made to the Minister, the Alberta Utilities Commission shall not have regard to whether the facility is an economic source of electric energy in Alberta or to whether there is a need for such a facility in meeting the requirements for electric energy in Alberta.

(2) The Alberta Utilities Commission may not make an order under section 18(6) of the *Hydro and Electric Energy Act* that is inconsistent with section 4(1)(c) of this Act as it relates to who is liable for the payment of the costs referred to in section 4(1)(c).

RSA 2000 cS-9 s5;2012 cR-17.3 s107

#### **Application of other enactments**

**6** Except where specifically provided to the contrary, nothing in this Act or the regulations relieves any person from compliance with any other enactment.

1988 cS-13.75 s5

#### **Duty to co-operate**

**7** Where, in accordance with the regulations, a small power producer takes steps to enter into a small power production contract with the appropriate public utility, the public utility and the small power producer

- (a) shall co-operate with each other and with the Minister and the Alberta Utilities Commission in the process leading up to the signing of the contract, and
- (b) shall sign the contract when its terms have been agreed on or otherwise finalized.

RSA 2000 cS-9 s7;2007 cA-37.2 s82(28)

#### **Regulations**

**8** The Lieutenant Governor in Council may make regulations

- (a) designating the public utilities to which this Act applies;
- (b) prescribing for the purposes of this Act the maximum program capacity, or the manner in which it is determined, which shall not exceed 125 MW;
- (c) prescribing the date, or the manner in which it is determined, for the purposes of section 3(4)(b);
- (d) authorizing the Minister to allocate, and governing the manner in which the Minister may allocate, capacity under section 3 to eligible power production facilities, including, without limitation, the manner in which the Minister may allocate capacity among the different kinds of facilities and among facilities with different nameplate capacities;
- (e) prescribing the date, or the manner in which it is determined, by which an eligible power production

facility that is the subject of a small power production contract must be operational;

- (f) establishing the procedure leading up to final allocation of capacity by the Minister to an eligible power production facility;
- (g) respecting additional eligibility requirements for eligible power production facilities and the owners of them for the purposes of this Act;
- (h) prescribing the term of a small power production contract, or the manner in which it is determined, for the purposes of section 4(1)(a);
- (i) prescribing the manner of calculating the inflation adjustment for the purposes of section 4(1)(b)(ii);
- (j) respecting the installation of equipment related to the connection between the eligible power production facility and the public utility's facilities, and respecting the records to be kept and the reports to be made relative to that equipment, including the persons required to keep and make them, at whose direction they are to be kept and made and the persons with whom reports so made are to be filed, for the purposes of this Act;
- (k) defining terms for the purposes of this Act and the regulations;
- (l) requiring the Balancing Pool, as defined in the *Electric Utilities Act*, to pay to a small power producer an amount in respect of income taxes that are paid by the small power producer;
- (m) providing for the manner of determining the amount of payments to be made to small power producers under clause (l) and the manner in which those payments are to be made.

RSA 2000 cS-9 s8;2003 cE-5.1 s166











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