

General Bylaw of the Alberta Energy Regulator

August 20, 2020

Article 1 Interpretation

1.1 Statutory Basis

This bylaw, which governs the organization, management and operation of the Alberta Energy Regulator (Regulator), is under section 8 of the Act.

1.2 Definitions

In this bylaw, except where otherwise defined herein or where the context otherwise specifies or requires, words and phrases defined in the Act have the same meaning where used in this bylaw.

1.3 Additional Definitions In addition, in this bylaw:

- (a) "Act" means the *Responsible Energy Development Act*, S.A. 2012, Chapter R-17.3, as amended, together with any regulations passed pursuant to it from time to time;
- (b) "board" means the board of directors of the Regulator;
- (c) "Chair" means the Chair of the Regulator as appointed from time to time by the Lieutenant Governor in Council;
- (d) "director" means, except where the context otherwise requires, a member of the board;
- (e) "enactments" mean, collectively, the Act, any energy resource enactment, and the specified enactments;
- (c) "energy resource enactment" is defined in section 1(1)(j) of the Act;
- (d) "hearing commissioner" is defined in section 1(1)l) of the Act; and
- (f) "specified enactments" are defined in section 1(1)(s) of the Act.

1.4 Binding Effect

This bylaw binds the board and all present and future directors to the same extent as if each had signed, sealed and delivered to each of the others a promise to comply with and be bound by this bylaw and all acts, decisions, proceedings and things done and taken under this bylaw.

1.5 Priority of Documents

- (a) This bylaw is subordinate to the enactments and is not intended to conflict with the enactments.
- (b) In the case of potential conflict between this bylaw and any enactment, this bylaw is to be interpreted to the extent reasonably practicable so as to eliminate the conflict.
- (c) If it is not possible to interpret this bylaw to eliminate a conflict referenced in section 1.5(a), the conflicting provision of this bylaw shall be considered severable from the remainder of this bylaw and of no force and effect. The balance of this bylaw shall remain in force and be binding as if the provision had not been included.
- (d) This bylaw shall take precedence over any policies, procedures, directives, resolutions or terms of reference adopted by the board.

1.6 Interpretation

In this bylaw:

- (a) words importing the singular shall include the plural and vice versa;
- (b) words importing gender shall include the masculine, feminine or neuter gender as the context requires or permits; and
- (c) words importing persons shall include individuals, partnerships, unincorporated associations, incorporated bodies, trustees, executors, administrators and legal representatives.

Article 2 Directors

2.1 Appointment of Directors

- (a) Directors shall be appointed in accordance with the applicable provisions of the Act, and shall serve with such remuneration and expense reimbursement from the Regulator as is determined from time to time by the Lieutenant Governor in Council in accordance with the Act.

2.2 Vacancies

- (a) The Chair may recommend to the Lieutenant Governor in Council that the office of a director be vacated if the director:
 - (i) by notice, in writing, resigns;
 - (ii) fails to attend two-thirds (2/3) of the board meetings or two-thirds (2/3) of the regularly scheduled board committee meetings in any twelve-month period, unless the director has been excused from attendance by the Chair;
 - (iii) fails to comply with any policies or procedures established under subsection 9(2) of the Act addressing the identification, disclosure and resolution of matters involving conflicts of interest of directors and others;
 - (iv) discloses information that might impair the ability of the Regulator to carry out its responsibilities;
 - (v) is convicted of an indictable offence for which no absolute discharge or pardon has been granted;
 - (vi) becomes mentally incompetent to make board related decisions; or
 - (vii) dies.
- (b) On removal of a director, the Lieutenant-Governor in Council may, in accordance with the Act, appoint a person to fill the vacancy.
- (c) The board may continue to act and fulfil its duties and responsibilities through its remaining directors notwithstanding one or more vacancies.

2.3 Duties of Chair

- (a) The Chair shall be appointed in accordance with the applicable provisions of the Act.
- (b) The Chair shall perform the responsibilities, which shall, at a minimum, include the following:
 - (i) call meetings of the board;
 - (ii) establish the agenda for meetings, with input from the other directors, board committees, the Chief Executive Officer and other sources as the Chair may consider appropriate;
 - (iii) when present, preside at meetings of the board;
 - (iv) generally, be responsible for the management of the business and affairs of the board;
and
 - (v) perform any other duties set out in the position description for the Chair, the Mandate and Roles Document or any other board approved document which sets out roles and responsibilities.
- (c) The directors may elect a Vice Chair from among their number in accordance with this Bylaw. In the absence or inability of the Chair to act, the Vice Chair (or in the absence of the *Vice* Chair, another director) shall perform all of the functions of the Chair.
- (d) The Chair has the power to act for, and in the name of the board in the execution, performance and carrying out of any act, matter or thing that is within the power of the board, subject only to any express directions or decisions given or made by a resolution of the board.

Article 3 Duties and Powers of the Board

3.1 General

Subject to the Enactments and this bylaw, the board shall manage the business and affairs of the Regulator, provide direction to management and take such other actions as are within the board's capacity and powers as it deems appropriate to fulfill its responsibilities pursuant to the enactments, the Mandate and Roles document and any other Board approved document which sets out roles and responsibilities.

3.2 Limitation on Powers

Notwithstanding anything else contained in this bylaw, the capacity and powers of the board are subject to the restrictions and requirements contained in, or imposed pursuant to, the enactments.

3.3 Delegation

Subject to any limitation by the enactments or any regulation made under the enactments on the power to delegate, the board may delegate any power or duty conferred or imposed on it under the enactments or any other relevant law to any one or more committees, officers, employees, hearing commissioners or any other person or persons. Such delegation shall be by resolution of the board or other written directive issued by the board. Unless otherwise stated in the delegation, the board reserves the right to revoke each and any delegation made by it.

Article 4 Meetings

4.1 Regular Board Meetings

- (a) The board shall hold at least four regular meetings per year at the times and places determined by the Chair.

- (b) The Corporate Secretary, or such other person as may be directed by the Chair, shall deliver notice of every regularly scheduled meeting of the board at least five (5) calendar days in advance of such meeting. The notice shall be accompanied by an agenda setting out the business to be conducted at that meeting and any supporting materials to be provided to the board to assist with the conduct of such business. The notice and accompanying materials shall be sent by the last known form of communication requested by each director.
- (c) No item of business shall be dealt with at any regular board meeting unless the item and supporting materials were included on the agenda delivered prior to that meeting or unless two-thirds (2/3) of the directors present approve dealing with that item.

4.2 Special Board Meetings

- (a) Special meetings of the board may be called by the Chair.
- (b) The Chair shall call a special meeting of the board no later than ten (10) days on receipt of a request to do so from two directors.
- (c) The Corporate Secretary, or such other person as may be directed by the Chair, shall deliver a notice of a special board meeting at least twenty-four (24) hours prior to such meeting. The notice shall be accompanied by an agenda that sets out the business to be conducted at that meeting together with any supporting materials to be provided to the board to assist with the conduct of such business. The notice and accompanying materials shall be sent by the last known form of communication requested by each director.
- (d) Additional business items may not be added to the agenda of a special meeting.

4.3 Notices

- (a) Attendance of a director at a meeting shall constitute a waiver of notice of the meeting, except where a director attends for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened. A waiver of notice executed by a director or directors, whether before or after the time stated for the meeting, shall be equivalent to the giving of notice.
- (b) The accidental omission to give any notice to any director or officer or the non-receipt of any notice by any such person or any error in any notice not affecting the substance thereof shall not invalidate any action taken at any meeting held pursuant to such notice.

4.4 Conduct of Meetings

- (a) A majority of the directors shall constitute quorum at any meeting of the board.
- (b) Directors may participate in regular and special board meetings by teleconference, videoconference, or other similar methods that permit them to hear each other and participate in the meeting. If a matter is urgent, and all members agree, materials can be provided electronically and the members may cast their votes electronically i.e. via email.
- (c) In the event a quorum is established but subsequently lost, the remaining directors present at the meeting shall constitute a quorum in respect of matters on the agenda for that meeting, but the departing director shall be entitled to request that any matter on the agenda be dealt with prior to that director's departure from the meeting, if reasonably practicable.

Notwithstanding the foregoing, those directors present may also adjourn a meeting, from time to time, until a quorum is present. No notice of continuation of the adjourned meeting shall be required but no additional matters shall be added to the agenda after such adjournment.

- (d) Each director including the Chair shall be entitled to one vote on each matter submitted to a vote at any meeting, except wherein a director has declared a conflict of interest. Unless otherwise provided for in this bylaw or an enactment, any such matter shall be determined by a majority of the votes cast and in all items of business the directors will strive for consensus in their decisions. In the event of a tie, the motion will fail.
- (e) A resolution or special resolution signed by all of the directors entitled to vote or a resolution of a committee signed by all of the members of that committee entitled to vote on the resolution, including execution in counterparts, is as valid as if passed at a meeting of the directors or the committee, as the case may be.
- (f) The Chair may determine and propose agenda items as consent items and will identify consent items as such on all meeting agendas. Items may be removed from the consent item portion of the agenda on the request of any one director. Items not removed may be adopted by general consent without debate. Removed items may be taken up either immediately after the consent agenda items or placed later on the agenda at the discretion of the Chair.
- (g) At the commencement of any meeting of the board or its committees, each director shall declare any conflict of interest where one is believed to, or to potentially exist. The circumstances shall be disclosed to the directors, and where it is found that a conflict exists, the affected director shall not participate in any discussion, decision-making or voting, and shall be excused from the meeting until the discussion, decision-making and voting, if any, on the matters are concluded.
- (h) If a director is temporarily absent from a meeting when a matter is introduced in which he or she has or may have a conflict of interest, the director shall, immediately on return to the meeting, or as soon thereafter as the director becomes aware that the matter has been considered, disclose the general nature of his or her interest in that matter.
- (i) The director's disclosure and abstention shall be recorded in the minutes of the meeting.
- (j) The board shall conduct its meetings in accordance with Roberts Rules of Order, as may be modified by the chair, or such other rules as it may, from time to time, adopt.
- (k) A director shall not be entitled to appoint any person his or her proxy for the purposes of voting at any meeting.
- (l) Each director shall, unless authorized by the board, maintain the utmost confidentiality with respect to the business and affairs of the Regulator. The board shall implement and maintain policies and procedures to ensure that all officers, employees and agents are bound to observe a similar duty of confidentiality.

Article 5 Committees

- (a) The board may from time to time establish, appoint directors to, remove directors from, and terminate one or more board committees, as it considers appropriate, by resolution at any meeting of the board.
- (b) The board shall approve the mandate and terms of reference of each committee and any amendments thereto.
- (c) Each committee of the board shall report to and be subject at all times to the control and direction of the board.
- (d) The Chair may appoint individuals who are not directors to one or more board committees for such term as the Chair considers appropriate. The Chair will determine the voting status of such individuals at the time of appointment.

- (e) Unless otherwise specified in the terms of reference of the board committee, the Chair is an *ex officio voting* member of all board committees with voting privileges.
- (f) Except as may be otherwise specified in the Bylaws or by the board, the general role of each committee of the board shall be to receive the reports and recommendations of management, provide information, make recommendations to the board for approval, and make decisions on behalf of the board in those areas of authority established by the board in the committee terms of reference.
- (g) Meetings of a committee shall be conducted, and (unless otherwise provided in the committee's terms of reference) shall be called and notice thereof given, in the same manner as for meetings of the board as set out in Article 4 of this Bylaw. Each committee shall determine and regulate its procedure and process in all other respects, except as may be otherwise determined by the board.
- (h) Unless otherwise specified, the minutes of meetings of board committees shall be made available to any director for information on request of such director.

Article 6 Chief Executive Officer and Other Officers

- (a) The board shall, subject to the approval of the Minister in accordance with section 7 of the Act, appoint an individual to serve as the Chief Executive Officer of the Regulator. The Chief Executive Officer shall be employed by the Regulator and shall be accountable to the board.
- (b) The Chair shall determine the expense reimbursement of the Chief Executive Officer, and the board shall, subject to approval by the Minister in accordance with section 7 of the Act, determine the remuneration to be paid to the Chief Executive Officer by the Regulator.
- (c) The Chief Executive Officer shall perform the responsibilities set out in the role description, the Mandate and Roles Document or any other Board approved document which sets out roles and responsibilities.
- (d) Subject to, and to the extent permitted by, the enactments, other applicable laws, rules and regulations, this Bylaw and board policies, procedures, direction or resolution, the board hereby delegates the general supervision over the operation of the business and affairs of the Regulator, and may further delegate any power or duty conferred or imposed on it, to the Chief Executive Officer.
- (e) The Regulator may appoint a Corporate Secretary and such other officers as the board may consider necessary or appropriate from time to time to discharge its responsibilities under the enactments. The board may appoint individuals to serve as officers of the Regulator, and to perform the responsibilities set out in the respective role descriptions approved from time to time by the board.
- (f) The Chief Executive Officer is hereby authorized to further delegate the authority delegated to the Chief Executive Officer to other officers of the Regulator. If the Chief Executive Officer delegates authority arising out of an enactment, such delegated authority shall be purely administrative. Any such delegation in no way relieves the Chief Executive Officer of the overall responsibility to the board.

Article 7 Financial and Administration

7.1 Auditor

- (a) Subject to the provisions of any applicable legislation the position of auditor shall be filled by resolution of the board.

(b) The auditor shall:

- (i) conduct an annual audit of the books, accounts and financial records of the Regulator;
- (ii) report to the board on its audited financial statements; and
- (iii) fulfill any other responsibilities relative to the Regulator imposed on it by applicable law, or such agreed duties requested by the Regulator.

(c) The board shall annually provide its audited financial statement to the Department of Energy.

7.2 Execution of Documents and Signing Authorities

Agreements, instruments and documents requiring execution by the Regulator including, without limitation, cheques, negotiable instruments, agreements, invoices, purchase orders and banking documents, shall be signed by such person or persons as the board determines from time to time by resolution or policy. All such agreements, instruments and documents so signed shall be binding upon the Regulator without any further authorization or formality.

7.3 Corporate Seal

- (a) The corporate seal shall be as adopted by the directors, and may be affixed to an approved or authorized agreement, instrument or document.
- (b) The number of corporate seals shall be determined by the Corporate Secretary. At least one corporate seal shall be kept in the custody of the Corporate Secretary.

Article 8 Limitation of Liability

8.1 Limitation of Liability

Each director, officer or employee, acting honestly and in good faith with a view to the best interests of the Regulator, shall not be liable for, and is hereby released from:

- (a) any acts, omissions or defaults of any other director, officer or employee;
- (b) any loss, damage or expense happening through the insufficiency or deficiency of title to any property acquired;
- (c) insufficiency or deficiency of any security in or upon which any monies shall be invested;
- (d) any loss, damage or expense arising from the bankruptcy, insolvency or tortious act of any person with whom any of monies, securities or effects shall be deposited;
- (e) any loss occasioned by any error of judgment or oversight on his or her part; and
- (f) any other loss, damage or misfortune whatsoever which shall occur in the execution of the duties of his or her office or in relation thereto.

8.2 Indemnity

- (a) To the greatest extent permitted by law, the Regulator shall indemnify each director, officer, employee, or Hearing Commissioner or a former director, officer or employee, or Hearing Commissioner against all costs, charges and expenses including an amount paid to settle an action or satisfy a judgment if reasonably incurred by him or her in respect of any civil, criminal or administrative action or proceeding to which he or she is made a party by reason of being or having been a director, officer or employee, if:
 - (i) he or she acted honestly and in good faith with a view to the best interests of the Regulator; and
 - (ii) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, he or she had reasonable grounds for believing that the conduct was lawful.
- (b) If a court order is required to provide the indemnity in subsection 8.2(a) above, the Regulator shall proceed in good faith to obtain that order.
- (c) The indemnity in subsection 8.2(a) shall be deemed to have been in effect from the date the Regulator or its legal predecessors were established unless a later date is stated in the indemnity.
- (d) The indemnity in subsection 8.2(a) shall:
 - (i) not operate in limitation of any other indemnity that is otherwise available;
 - (ii) apply notwithstanding the person having the benefit of the indemnity may serve or has served in any other capacity; and
 - (iii) not be included for the purposes of any supplemental bylaw dealing with debt obligations, guarantees, indemnity obligations and capital leases, in the calculation of outstanding debt obligations, guarantee obligations, indemnity obligations and capital lease obligations.
- (e) The Regulator may, on such terms and conditions as the directors consider necessary or advisable in the circumstances, advance funds to cover costs, charges and expenses which reasonably appear to be within the scope of the indemnity in subsection 8.2(a), notwithstanding the action or proceeding in question has not been fully resolved or determined.
- (f) Each Director, officer and employee shall be deemed to have assumed or agreed to continue in office, as the case may be, in reliance upon the right to indemnity in subsection 8.2(a).

8.3 Insurance

- (a) Subject to any limitations as may be imposed by law, the Regulator may purchase and maintain for the benefit of directors, officers, employees or others having the benefit of the indemnity in section 8.2, as the board may determine in its discretion from time to time.
- (b) Such insurance shall support and supplement the indemnity provided for in section 8.2, but the insurance shall not operate to limit the liability of the Regulator.

Article 9 Amendments and Additions to Bylaws

9.1 Approval by Board

Any resolution proposed to amend or add to this bylaw shall require for its passage the affirmative vote of at least two-thirds of the directors present for the vote.

9.2 Review

The Governance Committee shall review this bylaw with a view to updating its provisions and making such amendments as it considers necessary or advisable, no later than six months following proclamation of the *Responsible Energy Development Act* , at least once every two years thereafter.

Article 10 Transitional

10.1 General

All acts, proceedings, policies, directives and decisions of the board taken or implemented prior to the effective date of this bylaw are ratified and, until rescinded, shall continue to be effective under and for the purposes of this bylaw.

This bylaw is effective from the date hereof.

APPROVED AND ADOPTED BY THE BOARD OF
DIRECTORS OF THE ALBERTA ENERGY
REGULATOR ON THE 20th DAY OF AUGUST, 2020.

David Goldie , Chair
For and on behalf of the Board of Directors of
The Alberta Energy Regulator