



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 52

(2006, chapter 46)

**An Act respecting the implementation
of the Québec Energy Strategy and
amending various legislative provisions**

Introduced 14 November 2006

Passage in principle 23 November 2006

Passage 13 December 2006

Assented to 13 December 2006

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EXPLANATORY NOTES

The main objective of this bill is to follow up on the measures announced in Québec's Energy Strategy made public on 4 May 2006. It amends the Act respecting the Agence de l'efficacité énergétique, providing that the members of the personnel be appointed in accordance with the staffing plan established by by-law of the agency. The Act broadens the scope of the agency's object by making it responsible for promoting the development of new energy technologies for all forms of energy and all sectors of activity and for preparing a comprehensive energy efficiency and new technologies plan.

The bill describes the process for preparing the comprehensive plan, a process in which energy distributors are to participate. It sets out the obligations of the distributors and grants new powers to the agency. The bill also introduces a reporting process for the plan in order to ensure that the funds allocated to energy efficiency and new energy technologies are used properly.

The bill amends the Act respecting the Régie de l'énergie in order to give the Régie new terms of reference. With regard to the comprehensive energy efficiency and new technologies plan, the bill provides that the Régie will approve the amounts to be used to finance programs under the plan and fix the annual amount energy distributors must allocate to energy efficiency and technological innovations. The bill also provides for the active participation of the Régie in the reporting process for the plan.

Furthermore, the bill provides for the financing of measures aimed at reducing greenhouse gas emissions and adapting to climate change. To that end, it grants the Régie the power to introduce an annual duty on fuel that distributors must pay into the Green Fund established under the Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs. The bill also provides for new measures to ensure the reliability of electric power transmission in Québec.

The bill contains new measures on the pipeline distribution of biogas and syngas and the decentralized production of electric power.

Lastly, the obligation to maintain the delivery of electric power in winter despite non-payment of a bill is extended to all electric power distributors.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting the Agence de l’efficacité énergétique (R.S.Q., chapter A-7.001);
- Building Act (R.S.Q., chapter B-1.1);
- Act respecting the exportation of electric power (R.S.Q., chapter E-23);
- Act respecting the Ministère du Développement durable, de l’Environnement et des Parcs (R.S.Q., chapter M-15.2.1);
- Public Protector Act (R.S.Q., chapter P-32);
- Act respecting the Régie de l’énergie (R.S.Q., chapter R-6.01);
- Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2);
- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);
- Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1);
- Watercourses Act (R.S.Q., chapter R-13);
- Act respecting municipal and private electric power systems (R.S.Q., chapter S-41);
- Act respecting the leasing of water-powers of the Péribonca river to the Aluminum Company of Canada Limited (1984, chapter 19).

Bill 52

AN ACT RESPECTING THE IMPLEMENTATION OF THE QUÉBEC ENERGY STRATEGY AND AMENDING VARIOUS LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE AGENCE DE L'EFFICACITÉ ÉNERGÉTIQUE

1. The Act respecting the Agence de l'efficacité énergétique (R.S.Q., chapter A-7.001) is amended by inserting the following division before Division I:

“DIVISION 0.1

“DEFINITIONS AND SCOPE

“0.1. For the purposes of this Act,

“diesel fuel” means a liquid mixture of hydrocarbons obtained from the refining of petroleum to supply diesel engines;

“electric power distributor” means Hydro-Québec when carrying on electric power distribution activities;

“energy distributor” means a distributor of electric power, natural gas or fuel;

“fuel” means gasoline, diesel fuel, heating oil or propane, but not aviation fuel, marine bunker fuel or renewable fuel content;

“fuel distributor” means

(1) a person that refines, manufactures, mixes, prepares or distils fuel in Québec, excluding hydrocarbons used as raw material by industries that transform hydrocarbon molecules through chemical and petrochemical processes;

(2) a person that brings or causes to be brought into Québec fuel contained in one or more receptacles with a total capacity of over 200 litres, except fuel contained in a fuel tank installed as standard equipment to supply the engine of a vehicle; and

(3) a person that, in a year, acquires 25 million litres or more of gasoline, diesel, heating oil or propane from a person described in paragraph 1 or 2;

“gasoline” means a liquid mixture of hydrocarbons obtained from the refining of petroleum mainly for use as spark ignition engine fuel;

“heating oil” means a liquid mixture of hydrocarbons obtained from the refining of petroleum and used for domestic, commercial, institutional or industrial heating;

“natural gas distributor” means a natural gas distributor as defined in section 2 of the Act respecting the Régie de l’énergie (chapter R-6.01);

“propane” means a liquid mixture of hydrocarbons obtained from the refining of petroleum or the processing of natural gas and used as spark ignition engine fuel or for such applications as cooking or domestic, commercial, institutional or industrial heating.

For the purposes of sections 24.2 and 24.3 and Division IV.1, municipal electric power systems governed by the Act respecting municipal and private electric power systems (chapter S-41) and the Coopérative régionale d’électricité de Saint-Jean-Baptiste de Rouville governed by the Act respecting the Coopérative régionale d’électricité de Saint-Jean-Baptiste de Rouville (1986, chapter 21) are deemed to be energy distributors.”

2. Section 4 of the Act is replaced by the following section:

“4. The affairs of the agency shall be administered by a board of directors composed of

(1) not fewer than seven nor more than 10 members chosen from the sectors concerned appointed by the Government for a term not exceeding four years; and

(2) the president and chief executive officer of the agency appointed by the Government for a term not exceeding five years, who is an *ex officio* member of the board.

On expiry of their term of office, the members of the board of directors shall remain in office until replaced or reappointed.

Board members may be reappointed twice to serve in that capacity, for consecutive or non-consecutive terms.”

3. Section 6 of the Act is amended

(1) by striking out the first sentence of the first paragraph and by replacing “director general” in the second and third sentences of the first paragraph by “president and chief executive officer”;

(2) by inserting the following paragraph after the first paragraph:

“The Government shall fix the remuneration, employment benefits and other conditions of employment of the president and chief executive officer.”

4. The Act is amended by inserting the following section after section 6:

“6.1. The offices of chair of the board of directors and of president and chief executive officer may not be held concurrently.”

5. Section 10 of the Act is amended by replacing “director general” in the second paragraph by “president and chief executive officer”.

6. Section 13 of the Act is replaced by the following section:

“13. The members of the personnel of the agency shall be appointed in accordance with the staffing plan established by by-law of the Board.

Subject to the provisions of a collective agreement, the Board shall determine by by-law the standards and scales of remuneration and the employment benefits and other conditions of employment of the members of its personnel in accordance with the conditions defined by the Government.”

7. Section 14 of the Act is amended by replacing “director general” wherever it appears by “president and chief executive officer”.

8. Section 16 of the Act is amended

(1) by inserting “and the development of new energy technologies” after “promote energy efficiency”;

(2) by adding the following paragraph at the end:

“The functions of the agency also include preparing the comprehensive energy efficiency and new technologies plan and ensuring its implementation and follow-up.”

9. Section 17 of the Act is amended

(1) by adding “and new energy technologies” at the end of subparagraph 1 of the first paragraph;

(2) by adding “and new energy technologies” at the end of subparagraph 2 of the first paragraph;

(3) by inserting “or new energy technology” after “energy efficiency” in the first line of subparagraph 3 of the first paragraph and by adding “or new energy technologies” after “energy efficiency” at the end of that subparagraph;

(4) by inserting “or new energy technology” after “energy efficiency” in subparagraph 4 of the first paragraph;

(5) by adding “and new energy technologies” at the end of subparagraph 5 of the first paragraph;

(6) by replacing “administer energy efficiency programs” in subparagraph 6 of the first paragraph by “implement programs or actions promoting energy efficiency or new energy technologies”;

(7) by adding “and new energy technologies” at the end of subparagraph 7 of the first paragraph;

(8) by adding the following subparagraph after subparagraph 7 of the first paragraph:

“(8) ensure the implementation of any measure promoting energy efficiency and new technologies and targeting the reduction of greenhouse gas emissions.”;

(9) by inserting the following paragraph after the first paragraph:

“The agency may delegate the implementation of programs or actions promoting energy efficiency or new energy technologies and the implementation of measures targeting the reduction of greenhouse gas emissions in those fields.”;

(10) by replacing “field of industrial, institutional, commercial or residential energy efficiency” in the second paragraph by “field of energy efficiency or new energy technologies”.

10. Section 18 of the Act is amended

(1) by replacing everything after “participate financially” in paragraph 1 by “by granting a loan or a subsidy under a program promoting energy efficiency, new energy technologies or the reduction of greenhouse gas emissions, or by providing financial support to research and development in those fields.”;

(2) by replacing “an energy efficiency program” in paragraph 3 by “a program promoting energy efficiency, new energy technologies or the reduction of greenhouse gas emissions and”.

11. Section 19 of the Act is amended by replacing “Every energy efficiency program” by “A program promoting energy efficiency, new energy technologies or the reduction of greenhouse gas emissions and”.

12. Section 21 of the Act is repealed.

13. The Act is amended by inserting the following section after section 21:

“21.1. An energy distributor must send the agency any information or document the agency considers necessary for the application of this Act within the time limit the agency specifies.”

14. The Act is amended by inserting the following division after section 22:

“DIVISION II.1

“COMPREHENSIVE ENERGY EFFICIENCY AND NEW TECHNOLOGIES PLAN

“§1. — *Preparation of the comprehensive plan*

“22.1. An electric power or natural gas distributor must establish and send the agency, within the time limit the agency specifies,

- (1) its three-year energy efficiency targets for the various sectors of activity;
- (2) a three-year projected timetable for reaching those targets; and
- (3) its three-year energy efficiency priorities for reaching the targets.

The agency shall establish, within the same time limit, the three-year energy efficiency targets, projected timetable and priorities mentioned in the first paragraph that apply to fuels, new energy technologies or more than one form of energy.

Priorities must deal with the approaches to be taken to comply with the Government’s energy efficiency policy directions.

“22.2. The agency must submit to the Government, for approval, the three-year energy efficiency targets, projected timetable and priorities established in accordance with section 22.1.

“22.3. If an electric power or natural gas distributor fails to comply with section 22.1, the agency shall establish the distributor’s three-year energy efficiency targets, projected timetable and priorities, at the distributor’s expense.

The agency, however, must give the distributor a 10-day written notice of default.

“22.4. Following government approval, the agency shall prepare a comprehensive three-year plan outlining all the actions proposed to promote a better use of energy and the development of new energy technologies. The plan must address all energy uses and cover all forms of energy over a 10-year period.

“22.5. The comprehensive plan must include, among other things:

- (1) the Government's general energy policy directions and energy priorities;
- (2) the three-year energy efficiency targets, projected timetables and priorities approved by the Government;
- (3) the consultation report;
- (4) a description of the regulatory or other proposals on energy efficiency and new energy technologies;
- (5) a description of the programs and actions promoting energy efficiency, presented by deadline, form of energy and sector of activity;
- (6) a description of the programs to support technological innovation;
- (7) a description of the actions aimed at increasing awareness about energy efficiency and new energy technologies or providing information on or training or education in those fields;
- (8) information on the savings that may result from the implementation of the programs and actions in the plan;
- (9) the annual amount the agency and each energy distributor intend to allocate to programs and actions promoting energy efficiency and new energy technologies; and
- (10) an estimate of the costs of carrying out the elements of the plan.

“22.6. For the purpose of preparing the comprehensive plan, the agency shall consult energy distributors, representatives of the fuel sector, representatives of energy users in the residential, commercial, institutional, industrial and transportation sectors, as well as the various groups interested in the promotion of energy efficiency and new energy technologies.

“22.7. An electric power or natural gas distributor must develop programs and actions consistent with the three-year energy efficiency targets, projected timetables and priorities approved by the Government, and send them to the agency within the time limit the agency specifies.

The electric power distributor must also send the agency a list of the energy efficiency projects it selected, in the course of a year, under the tender solicitation procedure referred to in section 74.1 of the Act respecting the Régie de l'énergie. The list must be included in the comprehensive plan.

“22.8. If an electric power or natural gas distributor fails to comply with section 22.7, the agency shall develop the programs and actions at the distributor's expense.

The agency, however, must give the distributor a 10-day written notice of default.

“22.9. The agency is responsible for the development of programs and actions promoting energy efficiency that target fuel or more than one form of energy and the development of the programs and actions promoting new energy technologies. In developing those programs and actions, the agency must take into account the opinions and comments collected during its consultations.

“22.10. A description of a program or action must include the measures to be carried out, their cost and a schedule for carrying them out. It must also identify either the agency or the energy distributor as being responsible for carrying out the measures.

“§2. — Approval, amendments and follow-up

“22.11. On the date set by the Minister, the agency shall submit the comprehensive plan to the Régie to obtain its approval of the elements of the plan mentioned in paragraphs 5 to 10 of section 22.5.

“22.12. The elements of the comprehensive plan mentioned in paragraphs 5 to 10 of section 22.5 may be amended by the agency or an electric power or natural gas distributor, with the authorization of the Régie and on the conditions it determines.

“22.13. The agency must prepare a new comprehensive plan at least once every three years on the same conditions as apply to the preparation of the initial plan.

The agency shall also revise the comprehensive plan annually so that it reflects the amendments resulting from the annual review of the programs and actions it contains and from the decisions taken by the Régie with respect to energy efficiency.

The agency shall send the Régie the revised comprehensive plan within 30 days after the date of revision.

“22.14. Once the Régie has approved it under section 22.11, the comprehensive plan must be available to the public.

“§3. — Rules concerning energy distributors

“22.15. An energy distributor must carry out the programs and actions for which it is responsible under the comprehensive plan.

If an energy distributor is unable to carry out a program or action within the time limit and in the manner specified in the comprehensive plan or if it finds that a program or action is not meeting its objectives, it must notify the agency.

The agency may, at the distributor's expense, carry out the programs and actions the distributor fails to carry out, after giving the distributor a 10-day written notice to that effect.

“22.16. In order to follow up on the programs and actions that must be carried out by an energy distributor, the agency may require that the distributor submit a status report on the steps taken and the results obtained within the framework of the comprehensive plan.”

15. The heading of Division III of the Act is amended by striking out “, ACCOUNTS AND REPORTS”.

16. Section 24 of the Act is amended by replacing “son budget” in the French text by “ses prévisions budgétaires”.

17. The Act is amended by inserting the following after section 24:

“24.1. The agency may determine a tariff of fees for the use of the services it offers within the framework of a program or action promoting energy efficiency, new energy technologies or the reduction of greenhouse gas emissions.

“24.2. An energy distributor must pay an annual share to the agency, which is determined by the Régie in accordance with paragraph 3 of section 85.25 of the Act respecting the Régie de l'énergie.

The first paragraph applies to Hydro-Québec, despite section 16 of the Hydro-Québec Act (chapter H-5).

“24.3. The agency shall keep separate accounts for each energy distributor.

“24.4. The operations of the agency are funded with the sums from the shares paid under section 24.2, the fees it charges and the other monies it receives.

“24.5. The sums received by the agency under section 24.4 must be used exclusively for the purposes of this Act and to pay the obligations of the agency.

Any amount by which the agency's revenues exceed its expenditures in a fiscal year must be carried over to its subsequent annual budget.

“DIVISION III.1

“MANAGEMENT AND REPORTING

“24.6. Each year, the agency shall submit to the Régie, on the date set by the Régie, a progress report on the comprehensive plan and the use made of the sums received under section 24.2.

“24.7. The agency shall enter into a performance agreement with the Minister on the implementation of the comprehensive plan.

The agreement must contain

(1) a description of the role of the agency in the implementation of the plan;

(2) the part of the plan describing the objectives for each of the years of the agreement, the measures taken to meet the objectives, and the human, financial and material resources available; and

(3) the main indicators to be used in measuring results.”

18. Section 25 of the Act is amended by adding the following paragraph:

“The activity report must include

(1) a statement of the results obtained, measured against the objectives fixed in the performance agreement;

(2) a follow-up on the comprehensive plan;

(3) the Régie’s audit report on the progress made on the comprehensive plan; and

(4) a statement by the president and chief executive officer of the agency attesting to the reliability of the data and the monitoring mechanisms.”

19. Section 26 of the Act is amended by replacing “, activity report and development plan” by “and the activity report”.

20. Section 28 of the Act is amended by adding the following paragraph:

“The Auditor General may conduct a resource optimization audit of the agency without the prior concurrence required under the second paragraph of section 28 of the Auditor General Act (chapter V-5.01).”

21. Section 29 of the Act is repealed.

22. Section 31 of the Act is repealed.

23. The Act is amended by inserting the following division after section 31:

“DIVISION IV.1

“PENAL PROVISIONS

“31.1. An energy distributor that contravenes section 22.1, 22.7, 22.15, 22.16 or 24.2 is guilty of an offence and liable to a fine of \$2,000 to \$20,000 for a first offence and to a fine of \$5,000 to \$50,000 for a subsequent offence.

“31.2. An energy distributor that fails to provide information or a document referred to in section 21.1 or that provides false information is guilty of an offence and liable to a fine of \$1,000 to \$2,000 for a first offence and to a fine of \$2,000 to \$5,000 for a subsequent offence.”

BUILDING ACT

24. Section 47 of the Building Act (R.S.Q., chapter B-1.1) is amended by inserting “, to the Société d’énergie de la Baie James” after “Québec” in the second paragraph.

ACT RESPECTING THE EXPORTATION OF ELECTRIC POWER

25. Section 2 of the Act respecting the exportation of electric power (R.S.Q., chapter E-23) is amended by inserting “or the construction of a wind farm on” after “in or over”.

ACT RESPECTING THE MINISTÈRE DU DÉVELOPPEMENT DURABLE, DE L’ENVIRONNEMENT ET DES PARCS

26. Section 15.4 of the Act respecting the Ministère du Développement durable, de l’Environnement et des Parcs (R.S.Q., chapter M-15.2.1), amended by chapter 3 of the statutes of 2006, enacted by section 26 of that Act, is amended by inserting the following paragraph after paragraph 3:

“(3.1) the sums paid under section 85.38 of the Act respecting the Régie de l’énergie (chapter R-6.01);”.

PUBLIC PROTECTOR ACT

27. Section 15 of the Public Protector Act (R.S.Q., chapter P-32) is amended by adding the following paragraph after paragraph 5:

“(6) the Agence de l’efficacité énergétique.”

ACT RESPECTING THE RÉGIE DE L’ÉNERGIE

28. Section 2 of the Act respecting the Régie de l’énergie (R.S.Q., chapter R-6.01) is amended by inserting “, except biogas and syngas” at the end of the definition of “natural gas”.

29. Section 2.1 of the Act is amended by replacing “36, 44 and 85.1” by “36 and 44, Division I of Chapter VI.1”.

30. Section 2.2 of the Act is amended by replacing “, 56 and 85.1” by “and 56”.

31. Section 25 of the Act is amended by inserting the following subparagraph after subparagraph 2 of the first paragraph:

“(2.1) when approving the financing of the comprehensive energy efficiency and new technologies plan and determining the annual amount provided for in paragraph 2 of section 85.25;”.

32. Section 31 of the Act is amended by inserting the following subparagraph after subparagraph 4.1 of the first paragraph:

“(4.2) determine the annual amount each energy distributor must allocate to programs and actions promoting energy efficiency and new energy technologies, including those targeting more than one form of energy that are administered by the Agence de l’efficacité énergétique;”.

33. The Act is amended by inserting the following section after section 32:

“**32.1.** The Régie may enter into an agreement in accordance with the law with another government or a department or body of such a government or with an international organization or a body of such an organization.”

34. Section 36 of the Act is amended by inserting “or, when holding hearings under Chapter VI.2, any energy distributor” after “natural gas distributor” in the second paragraph.

35. Section 44 of the Act is amended by inserting “, an owner or operator referred to in paragraphs 1 to 4 of section 85.3” after “carrier” in subparagraph 1 of the first paragraph.

36. Section 47 of the Act is amended by inserting “refuse to provide any information or document required under this Act or” after “may” in the first line.

37. Section 48 of the Act is amended by adding the following sentence at the end of the second paragraph: “Applications filed by the electric power distributor or a natural gas distributor must include a document describing the impact a rate increase would have on low-income earners.”

38. Section 49 of the Act is amended by inserting the following paragraph after the first paragraph:

“When fixing rates for the delivery of natural gas, the Régie must also consider the total annual amount a natural gas distributor must allocate to energy efficiency and new energy technologies.”

39. Section 52.1 of the Act is amended by replacing “in the second paragraph” in the first paragraph by “in the second and third paragraphs”.

40. Section 62 of the Act is amended

(1) by inserting the following sentence at the end of the first paragraph: “These rights do not prevent the electric power distributor from entering into a supply contract to meet the needs of an independent electric power distribution system.”;

(2) by inserting the following paragraph after the second paragraph:

“Private electric power systems are the holders of exclusive distribution rights within the territory served on 13 December 2006 by their distribution system.”

41. Section 72 of the Act is amended

(1) by replacing “Every holder” at the beginning of the first paragraph by “With the exception of private electric power systems, a holder”;

(2) by replacing “energy efficiency measures” at the end of the first sentence of that paragraph by “the energy efficiency measures the holder proposes”.

42. Section 73.1 of the Act is replaced by the following section:

“73.1. The electric power carrier must submit the technical requirements for connection to its system to the Régie for approval. If the Régie deems it useful for the purposes of section 85.17, it may request that an owner or operator referred to in section 85.14 submit the technical requirements for connection to its system to the Régie for approval.”

43. Section 74.1 of the Act is amended

(1) by inserting “and energy efficiency projects” after “all sources of supply” in the first line of subparagraph 2 of the second paragraph;

(2) by adding the following paragraph after the second paragraph:

“An energy efficiency project to which a tender solicitation applies under subparagraph 2 of the second paragraph must meet the stability, sustainability and reliability requirements that apply to conventional sources of supply.”;

(3) by adding the following paragraph at the end:

“For the purposes of this section, the promoter of an energy efficiency project is deemed to be an electric power supplier.”

44. The Act is amended by inserting the following section after section 74.2:

“**74.3.** Despite sections 74.1 and 74.2, the electric power distributor may, under a program to purchase electric power from a renewable energy source, the conditions of which have been approved by the Régie, purchase electric power from a client whose production exceeds the client’s own consumption or from a producer, without having to solicit tenders.

This section applies only to electric power produced at a facility whose maximum production capacity is set by government regulation.”

45. The Act is amended by inserting the following sections after section 76:

“**76.1.** Unless a distribution agreement is entered into with the electric power distributor regarding the transfer to it of all or part of a client’s load, a private electric power system is required to distribute electric power to every person served by the system.

This section does not apply to a private electric power system if, before 13 December 2006, its client entered into an agreement with the electric power distributor for the transfer of the client’s load.

“**76.2.** No holder of exclusive electric power distribution rights may interrupt the delivery of electric power, between 1 December and 31 March, to the main residence of a client who is living there and whose heating system requires electric power, on the grounds that the client did not pay the bill on time or did not comply with the terms of the payment agreement. The electric power distributor’s conditions of service apply to any holder of exclusive rights to distribute electric power, with the necessary modifications.”

46. Section 80 of the Act is amended by inserting “and private” after “municipal” in the sixth paragraph.

47. Section 85.1 of the Act is amended by replacing “not subject to section 75” by “mentioned in section 2.1”.

48. The Act is amended by inserting the following after section 85.1:

“CHAPTER VI.1

“ELECTRIC POWER TRANSMISSION

“DIVISION I

“RELIABILITY STANDARDS

“85.2. The Régie shall ensure that electric power transmission in Québec is carried out according to the reliability standards it adopts.

“85.3. This division applies to

(1) an owner or operator of a facility with a capacity of 44 kV or more connected to an electric power transmission system;

(2) an owner or operator of an electric power transmission system;

(3) an owner or operator of a production facility with a capacity of 50 megavolt amperes (MVA) or more connected to an electric power transmission system; and

(4) a distributor with a peak capacity of over 25 megawatts (MW), whose facilities are connected to an electric power transmission system.

“85.4. With the authorization of the Government, the Régie may enter into an agreement with a body that proves it has the expertise to establish or monitor the application of electric power transmission reliability standards, in order to

(1) develop electric power transmission reliability standards for Québec;

(2) carry out inspections or investigations under Division II of Chapter III as part of plans to monitor compliance with the reliability standards; or

(3) provide the Régie with opinions or recommendations.

The agreement must set out the method of establishing remuneration and the terms of payment for achieving its objects.

“85.5. The Régie shall designate, on the conditions it determines, a reliability coordinator for Québec.

“85.6. The reliability coordinator must file with the Régie

(1) the reliability standards proposed by a body that has entered into an agreement under section 85.4, as well as any variant or other standard the reliability coordinator considers necessary;

(2) an evaluation of the relevance and impact of the standards filed; and

(3) the identification of any owner or operator and any distributor referred to in section 85.3 that may be subject to the reliability standards.

“85.7. The Régie may request the reliability coordinator to modify a standard filed or submit a new one, on the conditions it sets. It shall adopt reliability standards and set the date of their coming into force.

The reliability standards may

(1) subject to section 85.10, provide for a schedule of sanctions, including financial penalties, that apply if standards are not complied with; and

(2) refer to reliability standards set by a standardization agency that has entered into an agreement.

“85.8. The reliability coordinator shall submit to the Régie a guide describing criteria to be taken into account in determining the sanction for non-compliance with a reliability standard.

“85.9. If a body mandated by the Régie under an agreement referred to in section 85.4 considers that an entity subject to a reliability standard does not comply with the standard, the body must give the entity at least 20 days to submit observations. The body shall then report to the Régie on its findings and may recommend the application of a sanction.

“85.10. After giving the entity referred to in section 85.9 the opportunity to be heard, the Régie shall determine if it has failed to comply with a reliability standard, impose, if appropriate, a sanction that may not exceed \$500,000 a day, and set a deadline for payment.

A sanction referred to in the first paragraph may include a letter of reprimand to be made public in an appropriate manner or conditions for carrying on certain activities, set by the Régie.

“85.11. The financial penalties collected by the Régie for the purpose of ensuring the reliability of electric power transmission must be deposited in a separate account.

“85.12. The Régie may, on the conditions it sets, order an entity that fails to comply with a reliability standard to implement a compliance program within the time limit the Régie may specify.

“85.13. The reliability coordinator

(1) must submit to the Régie, for approval, a register identifying the owners, operators and distributors subject to the reliability standards adopted by the Régie;

(2) shall fulfil the duties devolved to the reliability coordinator under a reliability standard adopted by the Régie; and

(3) may, under a standard adopted by the Régie, provide operating guidelines.

“DIVISION II

“ELECTRIC POWER TRANSMISSION SERVICE CONTRACTS

“85.14. For the purposes of this division, “auxiliary carrier” means the owner or operator of an electric power transmission system or a facility with a capacity of 44 kV or more, connected to the electric power carrier’s transmission system and capable of providing transmission services to a third party.

“85.15. At the request of the electric power carrier, an auxiliary carrier must negotiate the terms of an electric power transmission service contract with the carrier.

The contract must be submitted to the Régie for approval.

“85.16. Failing an agreement between the electric power carrier and the auxiliary carrier, one of the interested parties may request the Régie to fix the terms of an electric power transmission service contract.

“85.17. If the Régie decides not to approve an electric power transmission service contract or if one of the interested parties makes a request under section 85.16, the Régie fixes the contract terms it deems fair and reasonable.

In establishing the costs the auxiliary carrier is entitled to recover, the Régie takes the first or the fourth paragraph of section 49, or both of those provisions, into account.

“85.18. A decision rendered under section 85.17 is enforceable on the date specified in the decision and binds the parties until, at the request of one of the parties and after giving any consumer concerned the opportunity to submit observations, the Régie considers it appropriate to terminate or amend its decision.

“DIVISION III

“ACCESS TO ELECTRIC POWER TRANSMISSION FACILITIES

“85.19. For the purposes of this division, “accessible carrier” means the owner or operator of a facility with a capacity of 44 kV or more, or the owner or operator of an electric power transmission system.

“85.20. An application for connection to the facilities of an accessible carrier or of the electric power carrier must be submitted to the electric power carrier in accordance with its rates and conditions for the transmission service.

“85.21. Following an application for connection, the electric power carrier, jointly with the accessible carrier, shall carry out an economic and financial analysis of the connection proposals and submit it to the Régie.

“85.22. The electric power carrier must obtain the authorization required under section 73 from the Régie for the connection chosen.

“85.23. If the connection authorized by the Régie involves a connection to the facilities of the accessible carrier, that carrier must ensure open access to the facilities and negotiate an agreement to that effect with the electric power carrier in compliance with Division II of this chapter.

“CHAPTER VI.2

“COMPREHENSIVE ENERGY EFFICIENCY AND NEW TECHNOLOGIES PLAN

“85.24. The terms and expressions defined in section 0.1 of the Act respecting the Agence de l’efficacité énergétique (chapter A-7.001) apply to this chapter.

“85.25. Within the scope of the comprehensive energy efficiency and new technologies plan prepared under the Act respecting the Agence de l’efficacité énergétique, the Régie shall

(1) approve each year the total expenditures it considers necessary to adequately finance the comprehensive plan and the programs and actions it contains;

(2) establish the annual amount each energy distributor must allocate to programs and actions promoting energy efficiency and new energy technologies, including those that are administered by the agency and target more than one form of energy;

(3) determine the annual share each energy distributor must pay to the agency for the purposes of the regulation made under subparagraph 10 of the first paragraph of section 114; and

(4) send a notice of payment to each energy distributor and provide the agency with all the information needed to collect the shares.

“85.26. An electric power or natural gas distributor must submit its programs and actions promoting energy efficiency or new energy technologies to the Régie each year on the date the Régie determines.

The agency shall send to the Régie, at the same time as the comprehensive plan or on the date the Régie determines, the programs and actions promoting energy efficiency that target fuel or more than one form of energy and the programs and actions promoting new energy technologies.

“85.27. The total annual amount an energy distributor must allocate to energy efficiency and new energy technologies is equal to the following:

- (1) the cost of the programs and actions to be carried out;
- (2) the expenses referred to in section 36; and
- (3) the annual share payable to the agency under section 24.2 of the Act respecting the Agence de l’efficacité énergétique.

“85.28. When establishing the annual amount for an electric power or natural gas distributor, the Régie must take into account the impact of that amount on the rates it fixes or on any rates applicable by the distributor.

“85.29. When establishing the annual amount for a fuel distributor, the Régie must

- (1) evaluate the relative effect of that amount on the price per litre of fuel paid by consumers; and
- (2) establish an annual amount for gasoline, diesel fuel, propane and heating oil.

“85.30. When approving the financing of programs and actions promoting energy efficiency or new energy technologies, the Régie must, in particular, ensure that the objectives set under those programs and actions are met.

“85.31. No later than 31 March of each year, a fuel distributor must file a registration statement with the Régie specifying

- (1) the address of the establishment it intends to operate and the address of any other establishment it intends to have operated by a third party; and
- (2) the volume of sales of fuel intended for consumption in Québec that was refined in Québec or brought into Québec during its preceding fiscal year and, where applicable, the volume of gasoline, diesel fuel, heating oil or propane acquired during its preceding fiscal year from a person described in subparagraph 1 or 2 of the definition of “fuel distributor” in section 0.1 of the Act respecting the Agence de l’efficacité énergétique, as well as any other information the Régie deems necessary for the purposes of this chapter, in the form prescribed by the Régie.

“85.32. The Régie shall audit the progress report the agency files on the comprehensive plan and the use made of the sums received under section 24.2 of the Act respecting the Agence de l’efficacité énergétique, and give the agency its audit report.

“CHAPTER VI.3

“FINANCING OF MEASURES TO REDUCE GREENHOUSE GAS EMISSIONS AND ADAPT TO CLIMATE CHANGE

“85.33. This chapter applies to

- (1) a natural gas distributor;
- (2) a person or partnership that brings fuel to Québec for the production of electric power; and
- (3) a distributor of fuel, excluding hydrocarbons used as raw material by industries that transform hydrocarbon molecules through chemical and petrochemical processes.

For the purposes of this chapter, a person or partnership referred to in subparagraph 2 of the first paragraph is deemed to be a distributor.

“85.34. For the purposes of this chapter and section 114,

“diesel fuel” means a liquid mixture of hydrocarbons obtained from the refining of petroleum to supply diesel engines;

“fuel” means gasoline, diesel fuel, heating oil, propane, petroleum coke or coal, but not aviation fuel, marine bunker fuel or renewable fuel content;

“fuel distributor” means

- (1) a person that refines, manufactures, mixes, prepares or distils fuel in Québec;
- (2) a person that brings or causes to be brought into Québec fuel contained in one or more receptacles with a total capacity of over 200 litres, except fuel contained in a fuel tank installed as standard equipment to supply the engine of a vehicle;
- (3) a person that, in a year, acquires 25 million litres or more of gasoline, diesel fuel, heating oil or propane from a person described in subparagraph 1 or 2; and
- (4) a person that, in a year, acquires petroleum coke or coal from a person described in subparagraph 1 or 2;

“gasoline” means a liquid mixture of hydrocarbons obtained from the refining of petroleum mainly for use as spark ignition engine fuel;

“heating oil” means a liquid mixture of hydrocarbons obtained from the refining of petroleum and used for domestic, commercial, institutional or industrial heating;

“propane” means a liquid mixture of hydrocarbons obtained from the refining of petroleum or the processing of natural gas and used as spark ignition engine fuel or for such applications as cooking or domestic, commercial, institutional or industrial heating.

“85.35. The Government may, for the period and on the conditions it determines, set

(1) greenhouse gas emission reduction objectives;

(2) the overall financial investment to be made to meet greenhouse gas emission reduction objectives and to carry out measures arising from any government policy or strategy that is designed to fight climate change and that includes means of adapting to climate change.

“85.36. Taking into account the objectives and the overall financial investment, the Régie shall establish by regulation

(1) the rate and method of calculation of the annual duty payable by a distributor on the basis of the carbon dioxide (CO₂) emissions generated by the combustion of natural gas and fuel, the rate of interest on sums due and the penalties exacted for failure to pay; and

(2) the conditions on which distributors must pay the annual duty to the Green Fund established under section 15.1 of the Act respecting the Ministère du Développement durable, de l’Environnement et des Parcs.

“85.37. A distributor referred to in section 85.33 must file with the Régie, on the date the Régie determines and in the form it prescribes, a statement specifying the volume of natural gas it distributed or the volume of sales of fuel intended for consumption in Québec that was refined in Québec or brought into Québec during its preceding fiscal year and, where applicable, the volume of gasoline, diesel fuel, heating oil, propane, petroleum coke or coal acquired during its preceding fiscal year from a person described in subparagraph 1 or 2 of the definition of “fuel distributor” in section 85.34 and any other information the Régie deems necessary for the purposes of this chapter.

“85.38. The Régie shall establish the amount each distributor concerned must pay under the regulation referred to in section 85.36 and give notice of it to the distributor and to the Minister of Sustainable Development, Environment and Parks.

The Minister shall collect the duties payable and deposit them in the Green Fund, along with any interest due or penalties.

“85.39. The Minister of Sustainable Development, Environment and Parks shall send the Government a report on the achievement of the objectives set, and on the use of the amounts paid under section 85.38. The report must be sent no later than 31 July each year, in the form and on the conditions set by the Government, if any. A copy of the report must be sent to the Régie on the same date.”

49. Section 102 of the Act is amended

(1) by inserting “, including an energy distributor to which Chapter VI.2 applies, a person referred to in section 85.33 and an owner or operator referred to in paragraph 2 of section 85.3” after “Every distributor” in the first paragraph;

(2) by replacing “This section applies” in the third paragraph by “Section 85.38 and this section apply”.

50. Section 112 of the Act, amended by section 50 of chapter 22 of the statutes of 2000, is again amended

(1) by replacing “or by a distributor, the terms and conditions of payment thereof and the interest rate on overdue amounts” in subparagraph 1 of the first paragraph by “, by an owner or operator referred to in paragraph 2 of section 85.3, by a person referred to in section 85.33 or by a distributor, including an energy distributor to which Chapter VI.2 applies, as well as the terms and conditions of payment, the rate of interest on sums due and the penalties exacted for failure to pay”;

(2) by inserting the following subparagraph after subparagraph 2.2 of the first paragraph:

“(2.3) the maximum production capacity referred to in section 74.3, which may vary with the source of renewable energy;”;

(3) by inserting “the classes of owners or operators referred to in paragraph 2 of section 85.3, or” after “electric power carrier,” in the first sentence of the second paragraph;

(4) by inserting “a class of owners or operators referred to in paragraph 2 of section 85.3,” after “electric power carrier,” in the second sentence of the second paragraph;

(5) by adding the following paragraphs at the end:

“The amount of the penalty the Government may determine under subparagraph 1 of the first paragraph may not exceed 15% of the amount that should have been paid.

In cases where energy needs are to be supplied out of an energy block, a regulation may provide that only certain classes of suppliers may be invited to tender by the electric power distributor and that the quantity of electric power required under each supply contract may be limited.”

51. Section 114 of the Act is amended

(1) by inserting the following subparagraphs after subparagraph 8 of the first paragraph:

“(9) the rates, method of calculation and terms of payment of the annual duty on natural gas and fuel payable under Chapter VI.3, the rate of interest on sums due and the penalties exacted for failure to pay;

“(10) the method of calculation of the annual share payable to the agency by energy distributors under section 24.2 of the Act respecting the Agence de l’efficacité énergétique, the terms of payment, the rate of interest on sums due and the penalties exacted for failure to pay.”;

(2) by adding the following paragraphs after the second paragraph:

“The rate, method of calculation and terms of payment referred to in subparagraphs 9 and 10 of the first paragraph may vary from one distributor or class of distributors to another. The Régie may also provide that a given provision of a regulation made under either of those subparagraphs is to become effective at different dates depending on whether it applies to electric power, natural gas, gasoline, diesel fuel, heating oil, propane or coal.

The amount of the penalty the Régie may determine under subparagraph 9 or 10 of the first paragraph may not exceed 15% of the amount that should have been paid.”

52. Section 115 of the Act is amended by replacing “for approval” by “, which may approve them with or without amendments”.

53. Section 116 of the Act is amended

(1) by inserting “or an owner or operator referred to in section 85.14” after “electric power carrier” in subparagraph 3 of the second paragraph;

(2) by adding the following subparagraph after subparagraph 6 of the second paragraph:

“(7) the electric power or natural gas distributor, if it contravenes the first paragraph of section 85.26.”

54. Section 117 of the Act is amended by replacing “pursuant to section 85.1” in the third paragraph by “under section 85.1, 85.31 or 85.37”.

ACT RESPECTING THE PROCESS OF NEGOTIATION OF THE COLLECTIVE AGREEMENTS IN THE PUBLIC AND PARAPUBLIC SECTORS

55. Schedule C to the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2) is amended by inserting “The Agence de l’efficacité énergétique” in alphabetical order.

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

56. Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), amended by Conseil du trésor decisions 203812 dated 6 June 2006, 203919 dated 19 June 2006 and 204239 dated 12 September 2006, is again amended by inserting “the Agence de l’efficacité énergétique” in alphabetical order in paragraph 1.

ACT RESPECTING THE PENSION PLAN OF MANAGEMENT PERSONNEL

57. Schedule II to the Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1), amended by Conseil du trésor decisions 203812 dated 6 June 2006, 203919 dated 19 June 2006 and 204239 dated 12 September 2006, is again amended by inserting “the Agence de l’efficacité énergétique” in alphabetical order in paragraph 1.

WATERCOURSES ACT

58. Section 3 of the Watercourses Act (R.S.Q., chapter R-13), amended by section 17 of chapter 24 of the statutes of 2006, is again amended by adding the following paragraph at the end:

“Ownership of hydraulic power in the domain of the State is and always has been attached to ownership of the bed of the watercourses in the domain of the State. This paragraph is declaratory.”

59. The Act is amended by inserting the following section after section 68:

“68.1. The operator of a private electric power system governed by the Act respecting municipal and private electric power systems (chapter S-41) that provides electric power it produces to a person that is not part of the system must pay the Minister of Natural Resources and Wildlife the charge fixed by government regulation.

This section does not apply to a Hydro-Québec electric power purchase program approved by the Régie under section 74.3 of the Act respecting the Régie de l’énergie (chapter R-6.01).

This section does not apply to an operator that, before 13 December 2006, was authorized by the Government to provide electric power to a person that is not part of its system.”

ACT RESPECTING MUNICIPAL AND PRIVATE ELECTRIC POWER SYSTEMS

60. Section 17.1 of the Act respecting municipal and private electric power systems (R.S.Q., chapter S-41) is amended by adding the following paragraph at the end:

“The first paragraph applies to a person or partnership producing electric power for its own consumption.”

ACT RESPECTING THE LEASING OF WATER-POWERS OF THE PÉRIBONCA RIVER TO THE ALUMINUM COMPANY OF CANADA LIMITED

61. Section 3 of the Act respecting the leasing of water-powers of the Péribonca river to the Aluminum Company of Canada Limited (1984, chapter 19) is amended by striking out “within twelve months preceding 1 January 2034” in the third paragraph.

62. The Act is amended by inserting the following section after section 4:

“**4.1.** All of the electric power produced by the company under the lease must be used to meet its industrial needs.

Any electric power not used for that purpose must be sold to and purchased by Hydro-Québec, at a price agreed on by the company and Hydro-Québec and approved by the Government.”

TRANSITIONAL AND FINAL PROVISIONS

63. A distributor of biogas produced at a landfill site within the framework of a project authorized by the Régie before 13 December 2006 retains the exclusive distribution rights granted under section 63 of the Act respecting the Régie de l’énergie.

For the purposes of this Act as it applies to the rates and the conditions applicable to the supply, transmission or delivery of natural gas by a natural gas distributor, the biogas referred to in this section is considered to be natural gas.

64. A regulation made under section 58 of the Public Administration Act (R.S.Q., chapter A-6.01) applies to the agency until the agency adopts a policy on the terms of its contracts.

65. The director general of the Agence de l'efficacité énergétique shall remain in office until a president and chief executive officer is appointed by the Government under section 4 of the Act respecting the Agence de l'efficacité énergétique (R.S.Q., chapter A-7.001). The position of director general is abolished on the date the president and chief executive officer takes office.

66. An employee of the Agence de l'efficacité énergétique who is a permanent public servant on 1 April 2007 is entitled to be placed on reserve in the public service if the employee sends the agency a notice to that effect before 1 June 2007.

67. An employee of the Agence de l'efficacité énergétique who, on 1 April 2007, is a permanent public servant of the agency and governed by the Public Service Act (R.S.Q., chapter F-3.1.1) may apply for a transfer to a position in the public service or enter a competition for promotion to such a position in accordance with that Act.

Section 35 of the Public Service Act applies to an employee who enters such a competition for promotion.

68. An employee referred to in section 67 who applies for a transfer or enters a competition for promotion may apply to the chairman of the Conseil du trésor for an assessment of the classification that would be assigned to the employee in the public service. The assessment must take account of the classification that the employee had in the public service on 1 April 2007, as well as the years of experience and the formal training acquired since.

If the employee is transferred following an application under section 67, the deputy minister of the department or chief executive officer of the body must assign to the employee a classification compatible with the assessment provided for in the first paragraph.

If promoted pursuant to section 67, the employee must be given a classification on the basis of the criteria provided for in the first paragraph.

69. Where some or all of the operations of the Agence de l'efficacité énergétique are discontinued or if there is a shortage of work, an employee referred to in section 67 is entitled to be placed on reserve in the public service with the classification the employee had on 1 April 2007.

In such a case, the chairman of the Conseil du trésor must establish the employee's classification on the basis of the criteria set out in the first paragraph of section 68.

70. An employee of the Agence de l'efficacité énergétique placed on reserve under section 66 or 69 remains in the employ of the agency until the chairman of the Conseil du trésor is able to assign the employee to a position in accordance with section 100 of the Public Service Act.

71. Subject to any remedy available under a collective agreement, an employee referred to in section 67 who is dismissed may bring an appeal under section 33 of the Public Service Act.

72. Any accredited association that represents the employees of the Agence de l'efficacité énergétique on 1 April 2007 continues to represent them and the collective agreements in force on that date continue to apply.

73. This Act comes into force on 13 December 2006, except sections 6 and 37, which come into force on 1 April 2007.

