



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-THIRD LEGISLATURE

Bill 13
(2023, chapter 7)

**An Act respecting the Hertel-
New York interconnection line**

**Introduced 22 February 2023
Passed in principle 15 March 2023
Passed 4 April 2023
Assented to 6 April 2023**

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EXPLANATORY NOTES

The purpose of this Act is to confer a power of transfer on Hydro-Québec in order to facilitate the carrying out of its project of supplying electricity mainly to New York City, which includes the construction and operation of facilities to transmit electricity between the Hertel substation, located in La Prairie, and an interconnection point in the Richelieu river, at the Canada–United States border.

To that end, the Act allows Hydro-Québec to transfer the ownership of the electric power transmission facilities in favour of a legal person or partnership constituted by Hydro-Québec and the Mohawk Council of Kahnawake. The Act determines the purpose of the legal person or partnership and grants them the same powers as Hydro-Québec in carrying on electric power transmission activities.

Furthermore, the Act provides a simplified expropriation procedure applicable to the acquisitions made by Hydro-Québec that are necessary for the construction of the facilities.

Bill 13

AN ACT RESPECTING THE HERTEL-NEW YORK INTERCONNECTION LINE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. In order to facilitate the carrying out of the Hydro-Québec project to supply electricity mainly to New York City, which includes the construction and operation of facilities to transmit electricity between the Hertel substation, located in La Prairie, and an interconnection point in the Richelieu river at the Canada–United States border, the purpose of this Act is to confer on Hydro-Québec the power to transfer the facilities. A further purpose of this Act is to simplify the expropriation procedure applicable to the acquisitions made by Hydro-Québec that are necessary for construction of the facilities.

For the purposes of this Act, “Hertel-New York interconnection line” means the electric power transmission facilities referred to in the first paragraph.

2. Hydro-Québec may, by written agreement, transfer the ownership of the Hertel-New York interconnection line or any right attached to it and the ownership of any immovable or any right attached to an immovable acquired for the construction and operation of the line in favour of the Partnership, that is, the legal person or the partnership constituted by Hydro-Québec or one of its wholly-owned subsidiaries and the Mohawk Council of Kahnawake or a legal person all of whose shares are held directly or indirectly by the Council. If the Partnership is a limited partnership, they must constitute the legal person that is to be the Partnership’s general partner.

3. The purpose of the Partnership is limited to carrying on electric power transmission activities that Hydro-Québec may carry on using the Hertel-New York interconnection line.

For that purpose, the Partnership has the same powers as Hydro-Québec in carrying on its activities and benefits from all of the rights of Hydro-Québec, unless its constituting act withdraws or restricts those rights.

4. Hydro-Québec must, at all times, control the Partnership in any of the following ways, as applicable:

(1) if the Partnership is a business corporation, Hydro-Québec must hold shares conferring more than 50% of the voting rights or else have the possibility of choosing the majority of its directors;

(2) if the Partnership is a limited partnership, Hydro-Québec must control the legal person that is the Partnership's general partner in the manner prescribed in paragraph 1; or

(3) if the Partnership is a partnership other than a limited partnership, Hydro-Québec must be able to determine collective decisions.

5. The Partnership or, if it is a limited partnership, the legal person that is the Partnership's general partner may not, alone or jointly with anyone, acquire more than 30% of the shares in a partnership nor acquire shares of a legal person carrying more than 30% of the voting rights.

6. Any agreement concerning ownership of the Hertel-New York interconnection line or ownership of the Partnership's shares and, if the Partnership is a limited partnership, its general partner's shares, must be approved by the Government to be valid, including amendments to the agreement or its renewal.

In addition, an agreement concerning ownership of the Partnership's shares or, if the Partnership is a limited partnership, its general partner's shares, must provide that the shares be held at all times by Hydro-Québec or one of its wholly-owned subsidiaries, and the Mohawk Council of Kahnawake or a legal person all of whose shares are held, directly or indirectly, by the Council, unless the Government decides otherwise.

7. Any acquisition by expropriation carried out by Hydro-Québec that is necessary for the construction of the Hertel-New York interconnection line does not require the authorization of the Government under subparagraph 3 of the first paragraph of section 33 of the Hydro-Québec Act (chapter H-5). The Expropriation Act (chapter E-24) applies to such an expropriation, subject to the following modifications:

(1) the expropriation need not be decided or, as applicable, authorized by the Government under the first paragraph of section 36 of that Act;

(2) the notice of expropriation

(a) must specify the date before which the expropriated party, lessee or occupant in good faith must vacate the premises;

(b) must contain a notification specifying that the expropriated party must send the expropriating party, within 60 days after the date of service of the notice of expropriation, documents justifying the indemnity for the injury directly caused by the expropriation; and

(c) must not include the notification required under subparagraph 3 of the first paragraph of section 40 of that Act specifying that the expropriated party has 30 days to contest the right to expropriate before the Superior Court;

(3) the expropriating party's right to expropriate may not be contested and, as a result, sections 44 to 44.3 of that Act do not apply;

(4) the notification required under section 45 of that Act must indicate to the lessee or occupant in good faith

(a) the date before which they must vacate the premises;

(b) the date of service of the notice of expropriation; and

(c) that they must send the expropriating party, within 60 days after the date of service of the notice of expropriation, documents justifying the indemnity for the injury directly caused by the expropriation;

(5) the 30-day period provided for in section 46 of that Act is replaced by a 60-day period and begins on the date of service of the notice of expropriation;

(6) the notice of transfer of title referred to in section 53.3 of that Act need not reproduce the text set out in paragraphs 3 to 5 of Schedule II to that Act, and the date on which the expropriating party takes possession of the property need not be at least 15 days after the date of registration of the notice;

(7) the notice of intention to register the notice of transfer of title referred to in section 53.8 of that Act need not reproduce the text set out in paragraphs 3 to 5 of Schedule II to that Act;

(8) the provisional indemnity, in the cases referred to in section 53.13 of that Act, is set by Hydro-Québec and includes the indemnity Hydro-Québec considers reasonable for the injury directly caused by the expropriation, to the extent that the documents justifying the indemnity, as applicable, were provided within the time prescribed by subparagraph *b* of subparagraph 2 or subparagraph *c* of subparagraph 4 of this section;

(9) the expropriated party, the lessee and the occupant in good faith may not apply, under section 53.14 of that Act, to retain possession of the expropriated property; and

(10) the expropriation indemnity for property is set on the basis of the value of the property and the injury directly caused by the expropriation on the date of the expropriation, but without taking into account the increased value attributable to the public announcement of the project.

From the date of registration of the notice of expropriation in the land register, any employee of Hydro-Québec or any other person mandated by Hydro-Québec may enter and pass over, at any reasonable time, any immovable referred to in the notice of expropriation in order to conduct surveys, examinations, analyses or other preparatory work related to the construction of the Hertel-New York interconnection line.

- 8.** The minister responsible for the administration of the Hydro-Québec Act is responsible for the administration of this Act.
- 9.** This Act comes into force on 6 April 2023.

