

NATIONAL ASSEMBLY

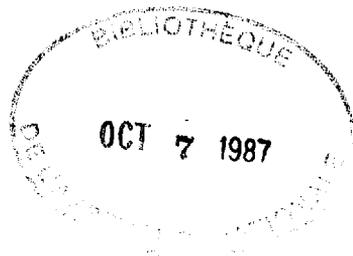
FIRST SESSION

THIRTY-THIRD LEGISLATURE

Draft Bill

An Act respecting the Régie du gaz naturel

Introduction



**Introduced by
Mr John Ciacca
Minister of Energy and Resources**

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EXPLANATORY NOTES

This draft bill removes electricity and steam from the scope of regulation under the Act respecting the Régie de l'électricité et du gaz, which it replaces.

It also provides for the reorganization and modification of the functions and powers of the regulatory body established by that Act.

That body, called the "Régie du gaz naturel", will henceforth be composed of three members. Its chief functions will be

- to approve the tariffs proposed by natural gas distributors;*
- to determine the rate of return of distributors;*

— to order a distributor to reimburse any surplus receipts to the consumers if the rate of return resulting from the application of an approved tariff exceeds the rate it had fixed;

— to arbitrate disputes between consumers and natural gas distributors as to the application of a rate or other charge for the supply, transmission or delivery of natural gas, the provision of other services or access to the distribution network.

The draft bill also authorizes the Government to fix, by order, general guidelines for the devising and approval of the tariffs of distributors.

In addition, it provides that henceforth a consumer may require a natural gas distributor to receive, transmit and deliver natural gas acquired by the consumer from a third person for his own use.

Finally, the draft bill provides that customers of private electrical distributors which are no longer subject to the Régie cannot be charged prices higher than they would be under the Hydro-Québec tariffs.

ACT REPLACED BY THIS BILL:

- the Act respecting the Régie de l'électricité et du gaz (R.S.Q., chapter R-6).

ACTS AMENDED BY THIS BILL:

- the Building Act (R.S.Q., chapter B-1.1);
- the Cities and Towns Act (R.S.Q., chapter C-19);
- the James Bay Region Development Act (R.S.Q., chapter D-8);
- the Gas Distribution Act (R.S.Q., chapter D-10);
- the Act respecting elections in certain municipalities (R.S.Q., chapter E-2.1);
- the Act respecting the exportation of electric power (R.S.Q., chapter E-23);
- the Hydro-Québec Act (R.S.Q., chapter H-5);
- the Electricity Municipalization Act (R.S.Q., chapter M-38);
- the Tree Protection Act (R.S.Q., chapter P-37);
- the Consumer Protection Act (R.S.Q., chapter P-40.1);
- the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12);
- the Act respecting Northern villages and the Kativik Regional Government (R.S.Q., chapter V-6.1).

Draft Bill

An Act respecting the Régie du gaz naturel

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

SCOPE

1. This Act applies to the supply, transmission and storage of natural gas delivered or intended for delivery by pipeline to a consumer by a distributor.

2. Unless the context indicates otherwise,

“distribution network” means the whole of the pipes, equipment, machines, structures, gasometers, meters and other devices and accessories intended for the supply, transmission and delivery of natural gas in a given territory from a junction with an interprovincial transmission network, except piping within the meaning of paragraph *k* of section 1 of the Gas Distribution Act (R.S.Q., chapter D-10);

“distributor” means a person or partnership holding an exclusive right to operate a distribution network pursuant to section 10 or exercising that right as lessee, trustee, liquidator or assignee;

“natural gas” means any hydrocarbon or mixture of hydrocarbons in gaseous form at a temperature of 15° C and a pressure of 101.325 kPa;

“storage” means any accumulation of natural gas in gaseous or liquid form in an underground or overground reservoir.

CHAPTER II

TARIFFS

3. No distributor may set a higher tariff of rates or charges for the supply, transmission or delivery of natural gas than is necessary to meet the expenses of the enterprise and to assure a reasonable return on the fair value of the investments in the enterprise.

The same rule applies to the rates that may be charged for the storage of natural gas by the operator of a reservoir for that purpose.

4. A reasonable return must be sufficient to allow the distributor or operator to meet the requisite expenses for the stability and normal development of the undertaking, so that it may meet the requirements of the consumers.

5. The fair value of the investments in an undertaking is calculated on the basis of its original cost less depreciation.

6. Every tariff of rates and other charges applicable to a consumer or class of consumers must reflect any rebate on the costs of acquisition or other advantageous conditions of supply granted to the distributor in consideration of the consumption by that consumer or class of consumers.

7. The rates and other charges applicable to the supply, transmission and delivery of natural gas must be submitted to the Régie du gaz naturel for approval according to the procedure prescribed in Chapter IV.

The same rule applies to the rates and other charges applicable to a distributor for the storage of natural gas.

8. Any agreement derogating from the provisions of a tariff approved by the Régie is null.

CHAPTER III

EXCLUSIVE RIGHT TO DISTRIBUTE GAS

DIVISION I

GRANT AND DURATION

9. Only the holder of an exclusive right granted under this division may operate a distribution network.

10. The Government, after obtaining the advice of the Régie, may, on such conditions as it may fix, grant to any person or partnership the exclusive right to operate a distribution network in such territory as it may delimit.

11. Any application for an exclusive right must be filed in writing with the Régie, which shall notify the Minister.

12. The Régie shall cause a notice to be published in the *Gazette officielle du Québec* and in one French-language daily newspaper and one English-language daily newspaper distributed in the territory contemplated in the application. The notice shall indicate

(1) that an application for an exclusive right has been filed with the Régie;

(2) that a public hearing will be held to examine the application;

(3) that any interested person may be heard and make representations at the hearing;

(4) the place, date and time of the hearing.

The hearing shall not be held before the expiry of thirty days following the last publication.

13. The Régie, after giving the interested persons an opportunity to be heard, shall give its advice on the application to the Government.

14. An exclusive right shall be granted for not over thirty years, but may be renewed.

15. The Government, after obtaining the advice of the Régie, may revoke an exclusive right at any time where the public interest so requires.

16. The Minister shall give notice in the *Gazette officielle du Québec* of every grant, renewal or revocation of an exclusive right.

DIVISION II

RIGHTS AND OBLIGATIONS OF DISTRIBUTORS

17. The holder of an exclusive right to operate a distribution network is entitled, in the territory where it obtains, to the exclusion

of any other person or partnership, to supply, transmit and deliver natural gas for consumption in the territory and to operate a distribution network.

18. The distributor, in the territory where the exclusive right to operate a distribution network obtains, may exercise the powers respecting natural gas relating to the sale and rent of apparatus or meters, work in the streets and interruptions of service and the power to enter private property set out in sections 63 to 71 and 73 to 76 of the Gas, Water and Electricity Companies Act (R.S.Q., chapter C-44), subject to the restrictions, conditions and obligations specified in those sections.

He may exercise the same powers, subject to the same restrictions, conditions and obligations, respecting the construction of pipelines for the supply, transmission and delivery of natural gas to his customers in the territory for which the exclusive right was granted to him, whether the pipelines are built wholly or partly within or outside that territory.

19. The distributor may acquire by agreement or by expropriation any right of way, servitude or immovable required for the supply, transmission or delivery of natural gas in the territory for which the exclusive right was granted to him.

20. The installation of pipes, conduits, dependencies, apparatus or other works by a natural gas distributor under or along any public road, street, lane, square or other public place in a municipality shall be made in accordance with the conditions agreed between the parties, or, failing agreement, the conditions fixed by the Régie.

21. Sections 87, 89 and 94 of the Gas, Water and Electricity Companies Act respecting illegal connections, damage to meters and apparatus exempt from seizure apply to distributors.

22. A distributor is bound to supply or deliver natural gas to every person requesting it in the territory served by his distribution network.

In the territory, the distributor must also receive, transmit and deliver to every consumer requesting it any natural gas acquired by the consumer from a third person for his own use.

At the request of the distributor, the Régie may exempt him from granting a request contemplated in the first or second paragraph if, in its opinion, the profitability and efficiency of the distributor's enterprise would be impaired.

23. No person may exact higher rates or charges for the supply, transmission, delivery or storage of natural gas than those approved by the Régie.

Under penalty of damages, no distributor may discontinue or suspend service to the consumer because of his refusal to pay a price higher than it would be according to the tariff approved by the Régie.

24. Where a distributor is supplied with natural gas by a supplier having an interest in his enterprise, he must submit the supply contract to the Régie for approval.

The same rule applies where the distributor has an interest in the enterprise of the supplier.

25. A distributor must obtain the prior authorization of the Régie

- (a) to cease or interrupt his operations;
- (b) to extend, alter or change his enterprise;
- (c) to alienate his enterprise.

26. Any allotment or transfer of stocks or shares of a legal person or partnership holding an exclusive right to distribute gas that would make the shares or stocks held by or on behalf of the selfsame person greater than fifty per cent in number of the stocks or shares held by all the shareholders or members must be previously authorized by the Régie.

Any interested person may apply to a competent court to cause any allotment or transfer in contravention of the first paragraph to be declared null.

27. Each year at the time fixed by the Régie, the distributor shall make a return to the Régie containing the following information:

- (1) the name, firm name or corporate name of the distributor;
- (2) in the case of a corporation, its capital stock, the various issues of securities made since the establishment of the enterprise or since the last return, and the names of the directors;
- (3) the assets, liabilities, revenues and expenses of the distributor for the year;
- (4) the prices and rates charged during the year;

(5) any other information that the Régie may require.

28. A consumer may request the Régie to arbitrate any dispute between the consumer and a distributor over the application of a tariff or any other charge for the provision of a service.

29. Any interested person not served by a distribution network may request the Régie to issue an order requiring the distributor to extend his distribution network in the territory where his exclusive right obtains.

The person may also request the Régie to advise the Government to extend the territory in which a distributor's exclusive right obtains and to order him to extend his distribution network.

30. The Régie, after holding hearings according to the procedure prescribed in Chapter IV, may order the extension of the network or recommend the extension of the territory in accordance with section 29, so far as that will not, in its opinion, impair the efficiency or profitability of the distributor's enterprise.

CHAPTER IV

RÉGIE DU GAZ NATUREL

DIVISION I

ESTABLISHMENT

31. A body is hereby established under the name of "Régie du gaz naturel".

32. The Régie shall be composed of three controllers, including the president and vice-president, appointed for a fixed term of not over five years by the Government, which shall fix their salaries and other conditions of employment.

The controllers shall hold office on a full-time basis.

33. The secretary and the employees of the Régie shall be appointed in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

34. The Government may, for the proper dispatch of the business of the Régie, appoint controllers ad hoc or on a temporary basis for such period as it may determine and determine their fees.

35. The Régie shall have its head office in the city of Montréal, and may have offices at any other place in Québec.

The Régie may sit at any place in Québec.

36. The vice-president shall exercise the powers of the president in case of his absence or inability to act.

37. The president and, at his request, a controller may continue to examine any application or request referred to them and make a decision notwithstanding the expiry of their terms.

38. No controller may, under pain of forfeiture of office, have any direct or indirect interest in an undertaking putting his personal interest in conflict with that of the Régie.

Forfeiture is not incurred if the interest devolves to the controller by succession or gift, provided he renounces or disposes of it with dispatch.

39. The controllers and employees of the Régie cannot be prosecuted on account of official acts done in good faith in the performance of their duties.

40. Any writing or document forming part of the records of the Régie and signed or attested by the president or a person designated by him for that purpose is authentic and is proof of its contents, without the necessity of proving the signature thereof.

41. The decisions of the Régie must be made with diligence, be in writing, and give reasons; they form part of the records of the Régie.

The Régie shall immediately send a certified copy of every decision to the parties and the Minister. At the request of the Minister, it shall also send him a copy of any other relevant document.

42. The fiscal year of the Régie ends on 31 March each year.

43. Not later than 30 June each year, the Régie shall send a report of its activities for the preceding fiscal year to the Minister. The report shall include, in particular, a statement of the applications filed with the Régie and of the decisions and orders it has made and the number, nature and results of the investigations conducted during the year. The report shall also contain any other information required by the Minister on the activities of the Régie.

The Minister shall table the report in the National Assembly within thirty days of receiving it if the Assembly is in session or, if it is not sitting, within thirty days of the opening of the next session or of resumption.

DIVISION II

FUNCTIONS AND POWERS

44. The Régie, to the exclusion of every other tribunal, has the function of

(1) deciding all applications for approval of tariffs for the supply, transmission, delivery or storage of natural gas;

(2) deciding, at the request of a consumer, any dispute between the consumer and a distributor in respect of the application of a tariff or other charge for the supply, transmission or delivery of natural gas or the provision of any other service;

(3) fixing the conditions for the installation of pipes, conduits, dependencies and other works by a distributor under or along any public road, street, lane, square or other public place in a municipality;

(4) supervising the operations of distributors to ensure that consumers are charged a just rate for natural gas supplied, transmitted, delivered or stored or the provision of services;

(5) deciding requests made under section 22, 25, 26, 28 or 29.

45. The Régie, of its own initiative or at the request of any interested person, may set forth general guidelines for the devising of tariffs submitted to it for approval under this Act.

46. The Régie may adopt rules of proof and procedure, which shall be submitted to the Government for approval.

47. When deciding an application for approval of a tariff, the Régie shall always take into account the competition of other forms of energy and the service cost to the major classes of users.

48. When deciding an application for approval of a tariff, the Régie shall first of all determine what it considers a sufficient rate of return on the fair value of the investments in the enterprise and the total amount of the expenditures it considers necessary to assume the cost of provision of the service concerned.

49. Where the Régie, after the end of a fiscal year, finds that the rate of return resulting from the application of a tariff it has approved is higher than the rate previously determined, it may, of its own initiative or at the request of an interested person, call a hearing and invite the distributor or the operator concerned to give the reasons for which the surplus should not be reimbursed to the consumers.

After giving the interested persons an opportunity to be heard, the Régie, if it considers it in the public interest, may order the reimbursement of the surplus to the consumers on such terms and conditions as it determines.

50. The Régie, before rendering a decision that may modify the use of an immovable situated in a reserved area or in an agricultural zone established in accordance with the Act to preserve agricultural land (R.S.Q., chapter P-41.1), must obtain the advice of the Commission de protection du territoire agricole du Québec.

51. The Régie may decide an application in part only. It may also issue any provisional order it deems necessary to protect the rights of the parties.

Any decision of the Régie on any matter within its jurisdiction is final and without appeal.

52. The Régie may revise or revoke any decision or order it has made

(1) where a new fact is discovered which could have justified a different decision had it been known in due time;

(2) where, for reasons deemed sufficient, a party interested in the dispute could not be heard;

(3) where a substantive or procedural defect may invalidate the decision.

53. Any decision or order containing clerical errors, mistakes in calculation or any other error of form may be rectified by the Régie.

54. Except on a question of jurisdiction, article 33 of the Code of Civil Procedure does not apply to the Régie and no extraordinary recourse provided in articles 834 to 850 of that Code may be exercised nor any injunction granted against the Régie acting in its official capacity.

DIVISION III

HEARINGS

55. The Régie may call a hearing upon receiving an application for approval of a tariff.

56. The Régie, of its own initiative or at the request of an interested person, may call a hearing

(1) to examine the expediency of requiring a distributor to submit a new tariff;

(2) to determine the rate of return of a distributor;

(3) to determine the method of allocation of service cost applicable to a distributor.

57. The Régie shall adjudicate at its discretion upon the expenses respecting matters within its jurisdiction and the execution of its decisions.

The Régie may award costs, including experts' fees, to parties whose participation in its proceedings it considers expedient.

58. Where the Régie intends to hold a hearing, it shall issue a procedural order fixing the date of the filing of each party's proof and the place and date of the hearing and setting forth any directive it considers necessary.

59. At every hearing, the Régie shall be assisted by an attorney, who may file proof in the record.

DIVISION IV

INSPECTION AND INVESTIGATIONS

60. A controller or any person designated in writing by the president may, for the purposes of an inspection to verify the carrying out of this Act,

(1) enter the establishment or property of a distributor at any reasonable time;

(2) examine and make copies of books, records, accounts, files and other documents relating to the purchase, sale, supply, transmission, delivery, consumption and storage of natural gas;

(3) require any information in respect of the carrying out of this Act and the production of any related document.

Every person having control, custody or possession of the books, records, accounts, files and other documents shall, on request, communicate them to the controller or the designated person and facilitate his examination of them.

A controller or designated person exercising powers under the first paragraph shall, on request, identify himself and produce a certificate of his quality issued by the Régie.

61. No person may hinder the work of a controller or designated person in the performance of his inspection duties.

62. The Régie may conduct any investigation necessary for the performance of its functions and, for that purpose, the controllers and any person specially authorized by the Régie have the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

CHAPTER V

REGULATIONS AND GENERAL GUIDELINES

63. The Government may, by order, set forth general guidelines for the devising and approval of tariffs for the supply, transmission delivery and storage of natural gas under this Act.

64. The Government may, by regulation, prescribe fees and duties applicable to applications, matters and proceedings submitted to the Régie.

CHAPTER VI

OFFENCES AND PENALTIES

65. Every person who contravenes any provision of section 9, the first paragraph of section 23 or section 24 or 25 of this Act or any order or decision of the Régie is liable, in addition to costs, to a fine of \$1 000 to \$5 000 for the first offence and \$5 000 to \$25 000 for every subsequent offence.

66. Every distributor who fails to make the return described in section 27 or who gives false information in the return is liable, in addition to costs, to a fine of \$500 to \$1 000.

67. Every person who contravenes any provision of section 61 is liable, in addition to costs, to a fine of \$500 to \$1 000.

68. Prosecutions under this chapter are brought in accordance with the Summary Convictions Act (R.S.Q., chapter P-15).

TRANSITIONAL AND FINAL PROVISIONS

69. This Act replaces the Act respecting the Régie de l'électricité et du gaz (R.S.Q., chapter R-6).

70. Unless the context indicates otherwise, the expression "Régie de l'électricité et du gaz" is replaced, wherever it appears in any regulation, order-in-council, order, contract or other legal instrument, by the expression "Régie du gaz naturel".

71. Sections 274 to 278 of the Building Act (R.S.Q., chapter B-1.1) are repealed.

72. Section 447 of the Cities and Towns Act (R.S.Q., chapter C-19) is amended by replacing the words "Régie de l'électricité et du gaz" in the fifth line by the words "Régie des services publics".

73. Section 42 of the James Bay Region Development Act (R.S.Q., chapter D-8) is amended by striking out the words "the Act respecting the Régie de l'électricité et du gaz (chapter R-6)" in the third and fourth lines of the first paragraph.

74. Section 1 of the Gas Distribution Act (R.S.Q., chapter D-10) is amended by replacing paragraph *g* by the following paragraph:

"(g) "Board": the Régie du gaz naturel;".

75. Section 15.1 of the Act respecting elections in certain municipalities (R.S.Q., chapter E-2.1) is amended by replacing subparagraph 13 of the first paragraph by the following subparagraph:

"(13) the Régie du gaz naturel,".

76. Section 3 of the Act respecting the exportation of electric power (R.S.Q., chapter E-23) is repealed.

77. Section 1 of the Hydro-Québec Act (R.S.Q., chapter H-5) is amended by replacing paragraph 2 by the following paragraph:

“(2) “Régie” means the Régie des services publics;”.

78. Section 23 of the said Act is amended by replacing the words “Electricity Municipalization Act (chapter M-38)” in the fourth line of the first paragraph by the words “Act respecting municipal and private electrical systems”.

79. Section 39.8 of the said Act is amended by striking out the words “the Act respecting the Régie de l’électricité et du gaz (chapter R-6),” in the third and fourth lines.

80. Section 46 of the said Act is replaced by the following section:

“46. The Régie may

(a) receive any petition and decide any contestation respecting the establishment or extension, upon municipal highways, roads, streets and lands, of underground conduits, overhead wires or other installations used for transmitting or distributing electricity;

(b) regulate any electrical construction or line, even when it crosses or parallels an already existing installation of any nature whatever, and order all necessary work in respect of both the electrical line or installation and the already existing installation;

(c) order, on such conditions as it may determine and notwithstanding section 2 of the Act respecting certain public utility installations (R.S.Q., chapter I-13), the sharing of the utilization of poles by more than one distributor of electricity when only distributors of electricity utilize or require the utilization of such poles.”

81. Section 48.1 of the said Act is amended by striking out the words “the Act respecting the Régie de l’électricité et du gaz (chapter R-6),” in the third and fourth lines.

82. The title of the Electricity Municipalization Act (R.S.Q., chapter M-38) is replaced by the following title: “An Act respecting municipal and private electrical systems”.

83. Section 2 of the said Act is amended by replacing paragraph 1 by the following paragraph:

“(1) The word “Board” means the Régie des services publics;”.

84. The said Act is amended by inserting after Division VII the following division:

“DIVISION VII.1

“PRIVATE ELECTRICAL SYSTEMS

17.1 In no case may the prices and rates fixed by any person or partnership operating an enterprise for the production, sale or distribution of electricity involve, for any class of persons to which the enterprise supplies electricity, a cost higher than what would be charged to an equivalent class of consumers of electricity under the tariff established by Hydro-Québec.”

85. Section 1 of the Tree Protection Act (R.S.Q., chapter P-37) is amended by replacing the third paragraph by the following paragraph:

“When the person or corporation requiring such authorization is a distributor within the meaning of the Act respecting the Régie du gaz naturel, the petition must be presented to the Régie du gaz naturel which, in that case, shall have exclusive jurisdiction in the matter.”

86. Section 5 of the Consumer Protection Act (R.S.Q., chapter P-40.1), amended by section 17 of chapter 21 of the statutes of 1986, is again amended by replacing the words “the Act respecting the Régie de l’électricité et du gaz (chapter R-6)” in the second and third lines of paragraph *b* by the words “the Act respecting the Régie du gaz naturel”.

87. Schedule I to the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12) is amended by replacing the words “the Régie de l’électricité et du gaz” in paragraph 2 by the words “the Régie du gaz naturel”.

88. Section 190 of the Act respecting Northern villages and the Kativik Regional Government (R.S.Q., chapter V-6.1) is amended by replacing the words “Régie de l’électricité et du gaz” in the fifth line by the words “Régie des services publics”.

89. The Minister of Energy and Resources is responsible for the administration of this Act.

90. This Act comes into force on (*insert here the date of assent to this Act*).