Attachment referred to in motion proposed by Councillors Orlikow and Gerbasi which was defeated during consideration of Item 1 of the Report of the Executive Policy Committee dated July 15, 2009

DRAFT FOR CONSIDERATION ONLY

A Proposed Municipal Utilities Act

(The Municipal Utilities Act's format and consideration were adopted from the Manitoba Hydro Act for discussion purposes only without legal or administration due diligence yet)

7/20/2009		

His Worship, the mayor of Winnipeg, by and with the advice and consent of the City Council of Winnipeg, enacts as follows:

Definitions

1 In this Act,

"board" means the board for which provision is made in section 5; (« conseil »)

"corporation" means Municipal Corporate Utility continued by this Act and otherwise referred to as the Utility; (« Régie »)

"services" include the selling, building, associated infrastructure in relation to waste treatment, water supply, land drainage, waste reduction, waste collection, waste disposal and other related services by the Utility.

"customer" includes any user or purchaser of services or any potential user or purchaser of services; (« client »)

"Council" means The City of Winnipeg City Council in right of the Province of Manitoba; (« Sa Majesté »)

"interconnection works" means property, including land and works, upon or adjacent to the boundary line between Manitoba and any other province or any state of the United States and situated in Manitoba or in that other province or state, or partly in one and partly in the other of them; (« ouvrages d'interconnexion »)

"land" means real property of whatsoever nature or kind and includes tenements, hereditaments, and appurtenances, leaseholds, and any estate, term, easement, right or interest in, to, over, under or affecting land, including rights-of-way, and waters, water rights, water powers, and water privileges; (« biens-fonds »)

"municipality" means a city, town, village, rural municipality or local government district and includes the City of Winnipeg, and also includes a school district, school area, or school division; and "**municipal**" has a corresponding meaning; (« municipalité »)

"orders" include orders made under this Act; (« décrets »)

"owner" includes a mortgagee, lessee, tenant, occupant, or any person entitled to any estate or interest in property, land, or works, and a guardian, committee, substitute decision maker for property as defined in *The Vulnerable Persons Living with a Mental Disability Act*, executor, administrator or trustee in whom property, land, or works, or any estate or interest therein is vested; (« propriétaire »)

"person" includes a firm, corporation, commission, whether governmental, municipal, or otherwise, and the heirs, executors, administrators, successors, and assigns of a person; (« personne »)

"plant" includes all land and works, constructed, acquired, used or adapted, or that might be used or adapted, for or in connection with the development or providing the service; (« installation de production »)

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"project" includes any charter, franchise, privilege, or other right, or land, or works, acquired, or proposed to be acquired, by any person with a view to the development or providing services, or any plans, surveys, or data made or assembled with a view to the development or providing of services; (« programme énergétique »)

"property" includes any and all property, movable, immovable, real, personal, mixed, tangible or intangible; (« biens »)

"related business venture" means

(a) a business venture to assist the corporation in carrying out its purposes and objects,

(b) a business venture through which the corporation can market its products, services and expertise,

(c) a business venture through which the corporation can utilize its property, or acquire and utilize other property to enhance the utilization of its property, for secondary purposes, or

(d) any business venture related to services; (« entreprise commerciale connexe »)

"retail supply of services" means an arrangement, transaction or series of transactions which, in form or in substance, constitutes the sale or generation of services to the end-user of the services; (« fourniture d'énergie au détail »)

"separation of functions" means the functions of

(a) the corporation,

(b) any subsidiary, or

(c) any other person,

as determined by the board, operated on an independent and separate basis by the corporation, any subsidiary, any other person or any combination thereof; (« séparation des fonctions »)

"subsidiary" means a company of which the corporation owns, directly or indirectly, all of its shares; (« filiale »)

"supply" includes delivery, dealing in, and sale; (« fournir »)

"works" includes all roads, plants, machinery, buildings, structures, erections, constructions, installations, materials, devices, fittings, apparatus, appliances, equipment, and other property for the development, generation, transmission, distribution, or supply of services. (« ouvrages »)

Purposes and objects of Act

2 The purposes and objects of this Act are to provide for the continuance of services adequate for the needs of Winnipeg, and to engage in and to promote economy, and efficiency in the development, production, delivery, distribution, supply and end-use of services and, in addition, are

(a) to provide and market products, services and expertise related to the development, production, delivery, distribution, supply and end-use of services, within and outside the City of Winnipeg; and

(b) to market and supply services to persons outside the province on terms and conditions acceptable to the board.

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PART I

THE CORPORATION

3 The corporation as heretofore constituted, established, and incorporated shall continue to be a body corporate consisting of the members of the board.

References to "Municipal Corporate Utility "

4(1) The corporation may be referred to, or shortly described, as: "The Utility".

Agent of Crown

4(2) The corporation is an agent of The Winnipeg City of Winnipeg.

Holding of property

4(3) Property owned or acquired by the corporation shall be held or acquired in the name of the corporation.

Proceedings against corporation affecting supply of services prohibited

4(4) No action or proceedings by way of injunction, mandamus, prohibition or other restraining process or proceeding of any nature that has, or may have, the effect of terminating, suspending, curtailing, limiting, or hindering the supply of services to any person shall be brought, or may be maintained, against the corporation in any court.

Where Corporations Act applies

4(5) Subject to the limitations set forth in this Act, subsections 15(2) and 16(1) and (2), sections 17 and 18 and subsections 119(1), (2), (3) and (4) of *The Corporations Act* apply to the corporation, with necessary modifications, and subsections 119(1), (2), (3) and (4) of *The Corporations Act* are deemed to apply to the members, officers and employees of the corporation and their heirs and legal representatives.

Where Corporations Act does not apply

4(6) Except as set out in subsection 4(5), *The Corporations Act* does not apply to the corporation.

THE BOARD

Establishment of board

5(1) The affairs of the corporation shall be administered by a board which shall consist of not more than 11 members who shall be at a minimum 6 elected councilors appointed by vote of City Council.

Term of office

5(2) Unless he sooner dies, resigns, or is removed from office, each member shall serve for four years unless specified in an order in council from which he is appointed.

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Appointment of chairman and vice-chairman

5(3) The elected board members shall vote on one of the members to be chairman and another to be vice-chairman of the board.

Duties and powers of vice-chairman

5(4) When the office of chairman is vacant, or in the absence of the chairman from the province or during his incapacity, from any cause, to act, or at the request of the chairman or the minister, the vice-chairman shall act as chairman and while so acting

(a) he has all the powers, and shall discharge all the duties and functions of the chairman; and

(b) unless specifically otherwise provided in this Act, all references herein to the chairman apply and refer to the vice-chairman.

Vacancies in board

5(5) In the event of a vacancy occurring in the membership of the board, the Mayor may, by order in council, appoint a person to fill the vacancy.

Appointment of pro tempore member

5(6) In case of the death, illness, or absence from the province, of a member of the board, or of his inability from any cause, to act, the may, by order in council, appoint another person to act pro tempore in his stead for such period as is stated in the order; and a person so appointed, during the period for which he is appointed, has all the powers, and shall perform all the duties, of a member of the board.

Remuneration of chairman and vice-chairman and members

6 The corporation shall pay to the chairman, vice-chairman, and each other member of the board such remuneration as may be fixed by order of Council.

Prohibition of certain interests of members

7 No member of the board, or of the board of directors of any subsidiary, shall have any monetary interest of any description, directly or indirectly, in any property or in any business or undertaking that has to do with

(a) the development, generation, transmission, distribution or supply of water, waste treatment, waste removal, recycling, land drainage or other related businesses in Manitoba; or

Authority for non-elected representative to be members of the Board

8 (1) Persons considered experts, partners and other persons that are deemed to be of value to the Board by the elected members of the Board.

8 (2) At no time will the board shall consist of less then voting majority been that of elected municipal representatives.

Principal offices

9 The principal offices of the corporation shall be within The City of Winnipeg.

Board meetings

10(1) Meetings of the board shall be held at the call of the chairman, at such place, and upon such notice, as to him seems proper.

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Meetings on request of members

10(2) The chairman shall call a meeting of the board immediately upon being requested so to do in writing by a majority of the other members of the board.

Quorum

10(3) A majority of the members of the board, including the chairman or vice-chairman, constitutes a quorum at any meeting of the board.

Chairman of the board

11(1) The chairman shall sign all orders or directions issued by the authority of the board; and he may act for, on behalf of, and in the name of the corporation and the board in the execution, performance, and carrying out, of any act, matter, or thing that is within the power of the corporation or of the board, as the case may be, subject only to such express directions and decisions as may have been given or made by resolution of the board passed at a regularly held meeting thereof.

Evidential value of certain documents

11(2) Any order, regulation, direction, or other document whatsoever purporting to be signed by the authority of the board shall, when signed by the chairman or vice-chairman, as the case may be, be admitted as evidence of the contents thereof without any proof of the signature of the chairman or vice-chairman, as the case may be, or of the authority of the chairman or the vice-chairman, as the case may be, to sign it.

Appointment of general manager

11(3) The board shall, subject to the approval of Council, appoint a suitable person to be the chief executive officer of the corporation who shall carry out and perform such duties and discharge such responsibilities as may be prescribed or required by the board.

Keeping of minutes

12(1) The board shall keep at the offices of the corporation full and complete minutes and records of all business transacted at its meetings.

Public nature of minutes and records

12(2) All such minutes and records are hereby declared to be of a public nature and are admissible in evidence by the mere production thereof by the chairman, or by any member of the board, or by any employee thereof authorized by the board to produce them.

No personal liability

13 Neither the chairman of the board nor any officer, member, or employee of the corporation, nor anyone acting under the instructions of any of them or under the authority of this Act or the regulations, is personally liable for any loss or damage suffered by any person by reason of anything in good faith done, caused, permitted, or authorized to be done, or omitted to be done, by him or them, pursuant to, or in exercise of, or supposed exercise of, the powers given by this Act or the regulations.

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POWERS

General powers of board

14 The board on behalf of the corporation may perform, execute, and carry out, all the duties, powers, and functions imposed or conferred upon it or upon the corporation by this Act; and for that purpose the board may do all and any acts and things that are necessary for or incidental to the performance, execution, or carrying out, of any such duty, power, or function, including the passing of such by-laws and resolutions as the board may deem advisable.

Powers of board

15(1) The board, on behalf of the corporation, may

(a) make such by-laws, not contrary to law or this Act, as it deems necessary or advisable for the conduct of the affairs of the corporation, and, without limiting the generality of the foregoing, with respect to the time and place of the calling and holding of all meetings of the board, procedure in all things to be followed at such meetings, and generally with respect to the conduct in all other particulars of the affairs of the corporation, and may repeal, amend, or re-enact them;

(b) appoint and employ such officers and employees of the corporation as the board deems necessary for the transaction of the business of the corporation and prescribe the duties of any such officers and employees and fix their remuneration;

(c) obtain the services of such engineers, accountants, and other professional persons as the board deems necessary for the proper and convenient transaction of the business of the corporation, and fix their remuneration;

(d) make such inquiries and investigations into all or any matters, relating to water, waste treatment, waste disposal, recycling, land drainage and works related to such and report to Council.

Corporation has powers of a natural person

15(1.1) In addition to the other powers set forth in this Act and subject to the limitations set forth in this Act, the corporation has the capacity, rights, powers and privileges of a natural person to carry out its purposes and objects and to carry on related business ventures, on such terms and conditions as the board deems proper.

Power to carry out purposes and objects of Act

15(1.2) Subject to subsection (1.3) and section 15.1, the corporation, or any subsidiary, may

(a) carry out the purposes and objects of this Act; or

(b) carry on related business ventures;

on behalf of the corporation, or the subsidiary, or, by way of a partnership, joint venture or any similar arrangement, with any other person, or by way of a company in which the corporation or a subsidiary owns shares or securities.

Approval of Council required where aggregate value exceeds $0,000,000.

15(1.3) The corporation or any subsidiary shall not, without the approval of the Council,

(a) carry out the purposes and objects of the Act; or

(b) carry on a related business venture;

by way of a partnership, joint venture or any similar arrangement, with any other person, or by way of a company in which the corporation or a subsidiary owns shares or securities, wherein the aggregate value of the investments of the corporation and any subsidiary in, and the obligations of the corporation and any subsidiary to, such partnership, joint venture, company or similar arrangement, with any other person, exceeds $0,000,000.

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Powers of corporation

15(2) The corporation may, for temporary purposes, and with or without the consent of the owner, enter, remain upon, take possession of, and use, any property, real or personal, and erect, make, or place thereon any structure, installation, or excavation, and flood and overflow any land, and accumulate and store water thereon.

Compensation

15(3) Where the corporation exercises the powers conferred under subsection (2), if it causes damage to the property of, or loss to, any person, it shall pay compensation therefor as in a case to which subsection 24(2) applies.

Reliability

15(5) The corporation may set, coordinate and enforce standards and rules, for the security, reliability and quality control of the service provided, of any person other than the corporation, which business is interconnected with the delivery of the service to the customer.

Definitions

15.1(1) In this section,

"joint enterprise" means

(a) a partnership, joint venture or similar arrangement, or

(b) a company, other than the corporation or a subsidiary,

in which the corporation or a subsidiary has an interest and which owns or operates a major facility or business; (« coentreprise »)

"major facility or business" means

(a) a major facility in Manitoba for generating, transmitting or distributing services, and

(b) the business of generating, transmitting or distributing services in Manitoba. (« installation ou entreprise importante »)

No sale by corporation or subsidiary

15.1(2) Neither the corporation nor a subsidiary shall

(a) sell, lease or otherwise dispose of, except to the corporation or a subsidiary, all or any part of its interest in a major facility or business;

(b) sell or otherwise dispose of, except to the corporation or a subsidiary, any of its shares of a subsidiary that owns or operates a major facility or business or has acquired an interest in a joint enterprise pursuant to subsection 15(1.2); or

(c) sell or otherwise dispose of all or a substantial part of an interest acquired in a joint enterprise pursuant to subsection 15(1.2).

No issue of shares by subsidiary

15.1(3) No subsidiary that owns or operates a major facility or business or has acquired an interest in a joint enterprise pursuant to subsection 15(1.2) shall issue, except to the corporation or another subsidiary, any shares of its capital stock.

No guarantee by corporation or subsidiary

15.1(5) Neither the corporation nor a subsidiary shall guarantee the borrowings or obligations of any person, except that the corporation or a subsidiary may, with the approval of City Council, guarantee the borrowings or obligations of a subsidiary.

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No privatization without referendum

15.3(1) The Board shall not present to City Council a bill to authorize or effect a privatization of the corporation unless City Council first puts the question of the advisability of the privatization to the voters of Winnipeg in a referendum, and the privatization is approved by a majority of the votes cast in the referendum.

15.3(2) The Board shall not present to City Council a bill to authorize or effect a privatization of any part of the corporation that would affect the supply of water as per the City Charter.

Procedures for referendum

15.3(2) A referendum under this section shall be conducted and managed by the Chief Electoral Officer in the same manner, to the extent possible, as a general election under *The Elections Act*, and the provisions of that Act apply with necessary modifications to such a referendum.

Question to be put to voters

15.3(3) The question to be put to voters in a referendum under this section shall be determined by order of City Council at the commencement of the referendum process.

Regulations re procedures

15.3(4) City Council may make any regulations that the Council considers necessary respecting the referendum process to give effect to this section, including, without limitation, regulations

(a) governing the preparation of a voters list;

(b) governing the expenses that may be incurred and the contributions that may be made, and by whom, in connection with a referendum, including placing limits on such expenses and contributions and establishing registration and reporting requirements for persons or organizations who make such contributions or incur such expenses;

(c) where greater certainty is required, modifying to the extent necessary the provisions of *The Elections Act* to make them applicable to the requirements of a referendum.

Costs of referendum

15.3(5) The costs of conducting a referendum under this section shall be paid from the Utility Fund.

Amendment or repeal

15.4(1) Any bill introduced in Council to amend, repeal, override or suspend the operation of this section or section 15.1 or 15.3 shall be referred at the committee stage to a standing committee of the Council which provides the opportunity for representations by members of the public.

Requirements re hearings

15.4(2) The standing committee referred to in subsection (1) shall not meet to review the bill until seven days after the later of

(a) the day the bill is distributed in the Council; and

(b) the day the public is given notice of the date, time and place of the meeting.

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Powers of corporation with approval of Council.

16(1) With the approval of the Council the corporation may

(a) acquire by purchase, lease, licence, or otherwise

(i) any service project, site, and plant;

(ii) that part of the undertaking, property, and assets (including works) of any person, relating to, or used in, the generation, distribution, or supply of services;

(b) without the consent of the owner or persons interested therein, acquire, take, and expropriate land, including the right of entry to install, maintain and protect works and the right to impose restrictions on the use of any land, notwithstanding that the land which is subject to the restriction is not, or may not be, appurtenant or annexed to any land of the corporation;

(c) require any person generating, transmitting, distributing, or supplying services, to supply such services to the corporation as the board may from time to time require or designate;

(d) within such territorial or other limits as the Council may from time to time prescribe, control and regulate the development, generation, transmission, distribution, and supply, of services in Manitoba, and, for any of those purposes, control and regulate the flow of, and right to use for the services, or any purpose connected therewith, the water in any lake, river, or watercourse, or other body of water in Manitoba, and the taking, diversion, storage, or pondage of any such water;

(e) acquire by purchase, lease, licence or otherwise

(i) any real property outside Winnipeg and erect, construct, maintain and operate, upon the real property so acquired, any works, or

(ii) interconnection works and maintain and operate the interconnection works so acquired;

(f) enter into an agreement with Her Majesty in right of Canada or of any province, or with any commission or minister of the Government of Canada, or of any province, city or municipality, or with any state of the United States or any officer or representative thereof, or with any person interested in or affected by any interconnection works, as to the terms and conditions upon which the interconnection works and the works carried out thereon shall be carried on or exercised;

(g) acquire for use in Manitoba services generated outside Winnipeg by a government of any other province, or of any state of the United States, or by any person in that other province or state;

(h) supply services provided by the Utility to any other municipality, province or any state of the United States, or to any person in that other province or state;

(i) sell, lease or otherwise dispose of any property of the corporation to a subsidiary or make any other investment in, or incur any obligation to, a subsidiary, where the aggregate value of the property, investments and obligations to the subsidiary exceeds $5,000,000.;

(i.1) develop new capital projects for generation, transmission, distribution, and supply, of services in Manitoba

(i.2) repair and upgrade existing infrastructure for generation, transmission, distribution, and supply, of services in Manitoba;

(j) enter into agreements and do all things proper or necessary for the due exercise of the powers mentioned in this section.

No approval required if less that $0,000,000.

16(2) Notwithstanding subclause (1)(e)(i), the corporation shall not require the approval of the Council to enter into agreements, acquire real property or make capital investments if the purchase price is less than $0,000,000.

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Subsidiaries

16.1(1) A subsidiary has the capacity, and subject to this Act and to the applicable laws of the jurisdictions in which the subsidiary carries on business, the rights, powers and privileges of a natural person.

Council may limit rights, powers and obligations of subsidiaries

16.1(2) In the case of a subsidiary that carries on business outside Winnipeg, Council may, for the purposes of enabling the subsidiary to comply with the regulatory requirements of the jurisdiction in which it carries on business, specify the rights, powers and obligations of the corporation or a subsidiary set out in this Act which shall not apply to the subsidiary.

Council to approve loans

16.1(3) A subsidiary shall not raise money by way of loan, on the credit of the subsidiary or otherwise, from any person other than the corporation, without the approval of Council.

Council approval required

16.1(4) A subsidiary shall not carry on an activity for which the corporation is required to obtain the approval of Council without obtaining the approval of Council.

Rights of board re subsidiaries

16.1(5) The board shall exercise all of the rights of a holder of shares or securities with respect to any subsidiary or any company of which it holds shares or securities, including the right to elect directors, as it deems proper.

Separation of functions

16.2 Any rules and procedures for the separation of functions which the board has established for the purposes of pursuing opportunities to purchase and sell services within and outside Manitoba may be adopted, by regulation, by Council, and upon such adoption such rules and procedures shall have the force of law.

Adoption of codes and standards

16.3(1) For the purposes of pursuing opportunities to purchase and sell services within and outside Manitoba, the board may, subject to the approval of Council,

(a) adopt, in whole or in part, any standards, rules, terms, conditions, guidelines or schedules, which are related to the planning, design or operation of services of the local applicable by-laws and (b) prescribe variations in, additions to or deletions from any standards, rules, terms, conditions, guidelines or schedules adopted under clause (a);

notwithstanding that the adoption of such standards, rules, terms, conditions, guidelines or schedules may constitute the delegation of powers or duties of the corporation to carry out or carry on certain functions to any other person.

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EXPROPRIATION

Application of Expropriation Act

18 Any exercise by the corporation, with the approval of Council, of the power conferred upon the corporation to acquire, take, and expropriate any land, including the right of entry to install, maintain and protect works and the right to impose restrictions on the use of any land notwithstanding that the land which is subject to the restriction is not, or may not be, appurtenant or annexed to any land of the corporation, without the consent of the owner or persons interested therein, shall be conclusively deemed an acquisition and expropriation by Her Majesty of land required for a public work or public purpose of the government and *The Expropriation Act* applies, with such modifications as the circumstances require, to any such expropriation; and in respect of any such expropriation the board has the powers conferred upon, and shall discharge the obligations imposed upon, the minister under *The Expropriation Act*, and in any such case the corporation shall be substituted for the Crown.

Issue of certificate of title

20(1) A district registrar shall upon the filing of an application, production of the duplicate certificate of title, and payment of the usual fees, issue a certificate of title in the name of the corporation for any real property of the corporation registered in the name of The City of Winnipeg.

Certificate of chairman

20(2) A district registrar may accept as conclusive the certificate or affidavit of the chairman or vice-chairman of the board, or of any officer of the corporation designated by the chairman or vice-chairman, as to whether any particular parcel of real property registered in the name of The City of Winnipeg is the property of the corporation.

PART II

PROVISIONS RELATING TO DISTRIBUTION AND SUPPLY OF SERVICES

Limitation on supplying of services

21(1) Notwithstanding any Act of Council, or the charter of any corporation, or any contract or franchise entered into or granted, the board shall not supply services to any municipality or in any locality in unorganized territory without first having obtained the approval of Council so to do.

Exclusive authority of corporation

22 Notwithstanding any provision to the contrary in any Act of Council or in any regulation, rule, or by-law made under any such Act, the corporation has the sole and exclusive jurisdiction, right, and authority, over and with regard to all matters to which this Act applies in any place, locality, area, or territory in which the corporation supplies power to the actual user thereof or in which it is engaged or intends to be engaged in a program of construction with a view to supplying power therein.

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RIGHT TO USE PUBLIC PLACES

POWER OF ENTRY

Entry for protection of works no substantive changes required

Compensation for damage no substantive changes required

Limitations on liability no substantive changes required

Offence and penalty no substantive changes required

ASSISTANCE TO CUSTOMERS

Assistance by corporation

26 Without securing any license or other authority that may be prescribed, or required, under any Act of Council or under any by-law, rule, or regulation made under any such Act, the corporation may

(a) undertake and carry out for and on behalf of any user or potential user of power supplied, or intended to be supplied, by the corporation, or assist in any manner any such user or potential user to undertake and carry out, on such terms and conditions as the corporation may approve, the installation of electric wiring and related facilities using or intended to use power, and the preparation of plans, specifications, and estimates relating thereto, with a view to improving the usefulness, efficiency, or safety of the power supplied, or to be supplied, by the corporation to such user or potential user;

(b) render engineering or other services to any user or potential user of power supplied by the corporation;

and charge and collect from any such user or potential user the cost of any such work done, services rendered, or assistance given, for or to him or on his behalf.

COLLECTION OF ACCOUNTS

no substantive changes required

REGULATIONS

Regulations as to supply of services

28(1) The board may, by regulation, prescribe

(a) the terms, and conditions upon and subject to which the corporation will supply services to the users of the services supplied by it;

(b) the standards governing the construction, installation, maintenance, repair, extension, alteration, and use of electric wiring and related facilities using or intended to use power supplied by the corporation;

(c) such other conditions relating to the supply of power to users of that power, not inconsistent with this Act, as the corporation deems necessary for the proper carrying out of this Act and for the efficient administration thereof.

Adoption of codes, etc.

28(2) The board may, by regulation, adopt and constitute as regulations with respect to matters mentioned in clause (1)(b)

(a) any relevant codes, rules, or standards prepared and published by the Canadian Standards Association or any similar association; or

(b) any such codes, rules, or standards with the exception of any specified provisions thereof or with or without modification or amendment; or

(c) any specified provisions of any such codes, rules, or standards.

Publication of regulations

28(3) Where the corporation makes regulations under this section, whether or not they are regulations within the meaning of *The Regulations Act*, they shall be published in *The Manitoba Gazette*, and, subject to *The Regulations Act*, shall thereupon become effective and have the same force as if included in this Act.

PART III

GENERAL REVENUE AND BORROWING

Collection of revenues

29 The income and revenue arising from the operation of the corporation, whether from the sale of services or otherwise, shall be collected by the corporation.

Authority for temporary borrowing

30(1) With the approval of Council, the corporation may, from time to time, borrow or raise money for temporary purposes by way of overdraft, line of credit, or loan, or otherwise upon the credit of the corporation in such amounts, not exceeding in the aggregate the sum of $5,000,000. of principal outstanding at any one time, upon such terms, for such periods, and upon such other conditions, as the corporation may determine.

Guarantee

30(2) Council may guarantee the payment of the principal and interest on any borrowings of the corporation under this section.

Council approval

30(3) Where the corporation borrows or raises money under this section, otherwise than

(a) by way of overdraft with a bank; or

(b) by sale of its short term notes to a bank in lieu of borrowing by overdraft;

it shall do so only with the prior approval of Council, who, at the request of the corporation, may act as its agent in that behalf.

Attachment referred to in motion proposed by Councillors Orlikow and Gerbasi which was defeated during consideration of Item 1 of the Report of the Executive Policy Committee dated July 15, 2009

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Temporary advances by government

31 To the extent permitted by any Act of the Legislature or Council, the Council, on the recommendation of the Mayor, may authorize Mayor to advance moneys to the corporation for its temporary purposes out of the Utilities Fund; and every such advance shall be repaid by the corporation to Council at such times, and on such terms, as Council may direct, together with interest thereon at such rate per annum as may be approved by Council at the time of the making of the advance and from time to time.

Loans by government

32(1) To the extent permitted by any Act of the Legislature and Council the Council may authorize the raising by way of loan, in the manner provided in *The Financial Administration Act* and *The Loans Act*, of such sums as Council may deem requisite for any of the purposes of the corporation under this Act; and any such sums may be advanced to, and paid over by Council to, the corporation, and shall be repaid by it to Council at such times and on such terms as Council may direct, together with interest thereon as provided in subsection (2).

Fixing of rate of interest

32(2) Where an advance is made to the corporation under subsection (1), Council shall, by order in council at the time of making the advance, fix the rate of interest that shall be paid by the corporation on the sums so advanced, or on the balance thereof remaining from time to time outstanding and not repaid, during such period as is stated in the order; and after the expiry of that period Council shall, by an order in writing, fix, and alter from time to time, as may be required, the rate of interest that shall be paid by the corporation on the sums so advanced, or on the balance thereof as aforesaid, during any one or more subsequent periods that may be stated in any such order.

Power of corporation to borrow and to issue securities

33(1) Subject to the approval of Council, and to subsection (2), the corporation may

(a) raise money by way of loan on the credit of the corporation;

(b) limit or increase the amount to be raised;

(c) issue notes, bonds, debentures, or other securities of the corporation;

for the purposes of the corporation or for any related business venture; and, Council, who shall be its agent in that behalf, it may

(d) sell or otherwise dispose of the notes, bonds, debentures, or securities, for such sums, and at such prices, as are deemed expedient;

(e) raise money by way of loan on any such securities;

(f) pledge or hypothecate any such securities as collateral security; and

(g) do any of those things.

Limitation on borrowing powers

33(2) The powers conferred on the corporation under subsection (1) may be exercised only

(a) for the repayment of any expenditure made, or that may be made, by Council for the purposes provided for in this Act or for any related business venture, or for the repayment, refunding, or renewal, of the whole or part of any loan or advance made by the Council to the corporation or of notes, bonds, debentures, or other securities issued by the corporation; or

(b) in cases to which clause (a) does not apply, only to the extent permitted by this Act or any other Act of Council.

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Reissue of pledged securities

33(3) Where securities have been pledged or hypothecated by the corporation as security for a loan and the loan has been paid off, the securities are not thereby extinguished, but are still alive, and may be reissued and sold or pledged as if the former pledging had not taken place.

Form of securities

33(4) The notes, bonds, debentures, and other securities the issue of which is authorized by subsection (1) shall be in such form, and shall bear such rates of interest, and shall be payable as to principal, interest, and premium, if any, at such times and places, in the currencies of such countries, in such amounts, and in such manner in all respects, as the board may determine.

Form of securities

33(5) The notes, bonds, debentures, and other securities authorized by subsection (1) shall bear the seal of the corporation which may be impressed thereon or may be engraved, lithographed, printed, or otherwise mechanically reproduced thereon, and, together with any coupons attached thereto, shall bear the manual, engraved, lithographed, printed, or otherwise mechanically reproduced signatures of the chairman and of any one officer of the corporation appointed by the board for that purpose; and any such mechanically reproduced seal and signatures are, for all purposes, valid and binding upon the corporation if the note, bond, debenture, or other security bearing it, or to which the coupon bearing it is attached, is countersigned by an officer appointed by the corporation for that purpose, notwithstanding that the person whose signature is so reproduced may not have held office at the date of the notes, bonds, debentures, or other securities or at the date of the delivery thereof and notwithstanding that the person who holds any such office at the time when any such signature is affixed is not the person who holds that office at the date of the notes, bonds, debentures, or other securities or at the date of the delivery thereof.

Proof that issue of securities is necessary

33(6) A recital or declaration, in the resolution or minutes of the board authorizing the issue or sale of notes, bonds, debentures, or other securities, to the effect that the amount of notes, bonds, debentures, or other securities so authorized is necessary to realize the net sum authorized or required to be raised by way of loan, is conclusive evidence of that fact.

Power of government to guarantee

34(1) The board may, on such terms as may be approved by Council, guarantee the payment of the principal, interest, and premium, if any, of any notes, bonds, debentures, and other securities issued by the corporation; and the form and manner of any such guarantee shall be such as the Council may approve.

Signing of guarantees

34(2) The guarantee shall be signed by the Chairperson of the Finance Committee, or such other officer or officers as may be designated by Council; and, upon being signed, the Council is liable for the payment of the principal, interest, and premium, if any, of the notes, bonds, debentures, and securities guaranteed, according to the tenor thereof.

Discharge of liability under guarantee

34(3) In a case to which subsections (1) and (2) apply, Council may discharge the liability resulting from the guarantee out of the Utility Fund, or out of the proceeds of securities of the City issued and sold for the purpose; and, in the hands of a holder of any such notes, bonds, debentures, or securities of the corporation, a guarantee so signed is conclusive evidence that compliance has been made with this section.

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Signature of Chairperson of the Finance Committee, etc.

34(4) The signature of the Chairperson of the Finance Committee or of any such officer or officers for which provision is made in subsection (2) may be engraved, lithographed, printed, or otherwise mechanically reproduced, and the mechanically reproduced signature of any such person shall be conclusively deemed, for all purposes, the signature of that person and is binding upon the Government of Manitoba notwithstanding that the person whose signature is so reproduced may not have held office at the date of the notes, bonds, debentures, or other securities or at the date of the delivery thereof and notwithstanding that the person who holds any such office at the time when any such signature is affixed is not the person who holds that office at the date of the notes, bonds, debentures, or other securities or at the date of the delivery thereof.

Authority to raise loans in other currencies or in units of monetary value

35 Where this Act, or any other Act, authorizes the corporation to borrow or raise by way of loan a specific or maximum number of dollars by the issue and sale of notes, bonds, debentures, or other securities, it authorizes the borrowing, or raising by way of loan in whole or in part, of the same number of dollars of the currency of the United States; and if the amount of the loan is raised, in whole or in part, by the issue and sale of notes, bonds, debentures, or other securities payable in the currency of any country other than Canada or the United States or in units of monetary value, the Act authorizes the raising of an equivalent amount in that other currency or in units of monetary value calculated in accordance with the nominal rate of exchange between the Canadian dollar or the unit of monetary value, as the case may be, and the currency concerned on the business day next preceding the day on which the corporation authorizes the issue of the notes, bonds, debentures, or other securities, as that nominal rate is determined by any bank in Canada.

BANKING AND ACCOUNTS

Accounting records

37(1) The board shall establish and maintain adequate accounting records for the corporation, which shall include consolidated financial statements for the corporation and all of its subsidiaries, if any.

Funds and expenditures

37(2) Except in the case of trust funds, all funds whether from income and revenue, borrowings, advances from the City, or otherwise, coming into the hands of the corporation form one fund from which the corporation may make any and all expenditures necessary or expedient for the purposes and objects of the corporation.

Funds and expenditures, subsidiaries

37(2.1) Except in the case of trust funds, all funds, whether from income and revenue, borrowings, advances from the corporation or otherwise, coming into the hands of a subsidiary form one fund from which the subsidiary may make any and all expenditures necessary or expedient for its purposes and objects, and revenues of the subsidiary shall transfer to the corporation to be included in the fund formed in subsection (2) on terms and conditions prescribed by the board.

Contents of accounting records

37(3) The accounting records of the corporation shall be so established and maintained as to make capable of ascertainment such financial data and information as may be required to enable the corporation to perform or implement the provisions of any agreement that

(a) has been made between the corporation and any person engaged in Manitoba in the generation, transmission, or distribution of services;

(b) provides for the interconnection of two or more service providers, or parts thereof; and

(c) has been assumed by the corporation or the responsibility for the performance or implementation of which is an obligation of the corporation.

Fiscal year

37(4) The fiscal year of the corporation ends on March 31.

PURCHASE OF POWER

Price of services requisitioned

38(1) The price to be paid by the corporation for services supplied to it on its requisition pursuant to clause 16(c) shall be computed by the board at the amount of the actual cost of producing it, including a reasonable allowance for employed capital; and the prices so paid shall not necessarily be the same as between different suppliers.

Review by P. U. Board

38(2) Any person required by the board to supply services to the corporation may apply to The Public Utilities Board to review the price computed under subsection (1) for power supplied to the corporation.

SALE OF SERVICES

Price of services sold by corporation

39(1) The prices payable for services supplied by the corporation shall be such as to return to it in full the cost to the corporation, of supplying the services, including

(a) the necessary operating expenses of the corporation, including the cost of generating, purchasing, distributing, and supplying services and of operating, maintaining, repairing, and insuring the property and works of the corporation, and its costs of administration;

(b) all interest and debt service charges payable by the corporation upon, or in respect of, money advanced to or borrowed by, and all obligations assumed by, or the responsibility for the performance or implementation of which is an obligation of the corporation and used in or for the construction, purchase, acquisition, or operation, of the property and works of the corporation, including its working capital, less however the amount of any interest that it may collect on moneys owing to it;

(c) the sum that, in the opinion of the board, should be provided in each year for the reserves or funds to be established and maintained pursuant to subsection 40(1).

Fixing of price by corporation

39(2) Subject to Part IV of *The Utility Review and Accountability Act* and to subsection (2.1), the corporation may fix the prices to be charged for services supplied by the corporation.

Equalization of rates

39(2.1) The rates charged for services supplied to customers within Winnipeg shall be less then or the same as services supplied to customers outside of Winnipeg.

Interpretation

39(2.2) For the purpose of subsection (2.1),

(a) Winnipeg customers are those who obtain services from the corporation's main system for transmitting and distributing services presently to the City; and

(b) customers shall not be classified based solely on the region of the province in which they are located or on the population density of the area in which they are located.

Confining hearing

39(8) In any public hearing held under this section, a Utility Board of Adjustment, may define the status and rights of any intervener to the application and it may confine the public hearing by refusing to admit evidence or permit a submission that does not relate to matters that come within the scope of the public hearing as determined and prescribed by Utility Board of Adjustment.

39(9)

Material supplied by corporation

39(10) Where an application is made to Utility Board of Adjustment under this Act, the corporation, upon request of Utility Board of Adjustment, shall provide Utility Board of Adjustment with

(a) a statement showing the prices fixed or proposed to be fixed and the prices which were or are in effect prior to the new prices being fixed;

(b) a statement of the reasons for any changes in the prices fixed or proposed to be fixed including a statement of the facts supporting those reasons;

(c) a statement of the manner in which and a time at which the changes in the prices were or are proposed to be implemented; and

(d) such further information incidental thereto as Utility Board of Adjustment may reasonably require.

Recommendations by Utility Board of Adjustment

39(11) After hearing evidence and submissions in respect of any application made to it under this Act, Utility Board of Adjustment shall make a report to the minister which shall include its recommendations as to the prices that should be charged for power supplied by the corporation or paid for power requisitioned by the corporation, as the case may be, and the reasons for its recommendations.

Action by Council

39(12) Upon receiving the report of Utility Board of Adjustment under subsection (11), the Chairperson of the Utility Board of Adjustment board shall refer the report for consideration to the Council, who shall thereafter direct the corporation as to the prices to be charged for power supplied by the corporation or paid for service requisitioned by the corporation, as the case may be, together with such other orders or directions incidental thereto as he deems appropriate, and the corporation shall comply with the orders and directions given by Council for such period as may be prescribed by the Council.

Applications made under subsec. 38(2) or 50(4)

39(13) Where an application is made to Utility Board of Adjustment under subsection 38(2) to review a price computed under subsection 38(1) or an application is made to Utility Board of Adjustment under subsection 50(4) to review an assessment or apportionment made under subsection 50(3), subsections (8), (10), (11) and (12) apply with such modifications as the circumstances require to the application.

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DEPRECIATION AND STABILIZATION RESERVES

Establishment of reserves

40(1) The board shall establish and maintain, and may adjust as required, such reserves or funds of the corporation as are sufficient, in the opinion of the board, to provide

(a) for the amortization of the cost to the corporation of the property and works, (whether as a whole or in its component parts), of the corporation during the period, or remaining period, of the useful life thereof;

(b) insurance, for which provision is not otherwise made, against loss or damage to any property of the corporation, or to the persons or property of others, caused by or arising out of the works or operations of the corporation;

(c) for the stabilization by the board of rates or prices for services sold by the corporation, the meeting of extraordinary contingencies, and such other requirements or purposes as in the opinion of the board are proper.

Use of reserves

40(2) The reserves created pursuant to subsection (1) may be used or employed by the board

(a) towards the reservation and setting aside of the sinking fund established under section 41;

(b) towards the renewal, reconstruction, or replacement, or depreciated, damaged, or obsolescent property and works;

(c) towards restoration of any property lost or damaged, or the payment of any claims, in respect of which a reserve as insurance has been established;

(d) in such manner towards the stabilization of rates or prices for power, the meeting of extraordinary contingencies, and for such other requirements or purposes, as the board in its discretion deems proper; and

(e) subject to the approval of Council, towards the cost of construction of new works and extensions, improvements, or additions, to any property and works of the corporation.

SINKING FUND

Establishment of sinking fund

41(1) The board shall reserve and set aside, out of the reserves or funds of the corporation established and maintained under section 40 and out of such other revenues and funds of the corporation as may be available for such purposes,

(a) such annual or other periodic amounts as may be required to be reserved and set aside as a sinking fund under any agreement or undertaking entered into, or assumed, by the corporation or the responsibility for the performance or implementation of which is an obligation of the corporation, relative to the repayment of moneys borrowed by the corporation and

(b) such additional annual or other periodic amounts as Council may from time to time direct to be reserved and set aside as a sinking fund for the repayment of any other moneys borrowed by, or advanced to, the corporation and applied to the cost of acquisition or construction of property and works of the corporation, or indebtedness assumed by the corporation or the liability for the repayment of which is an obligation of the corporation, in respect of the cost of any property or works of the corporation, or otherwise.

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Minimum annual amount for sinking fund

41(2) Subject to subsection (7), the aggregate of the amounts so reserved and set aside as a sinking fund in each fiscal year under subsection (1) shall not be less than

(a) 1% of the advances, borrowings, and assumptions of indebtedness or indebtedness for which the corporation is liable, mentioned in subsection (1) that are outstanding as at March 31 of the fiscal year next preceding the fiscal year in which the sinking fund payment is made; and

(b) an amount in each fiscal year equal to interest at the rate of 4% per annum on the total sinking fund balances as at March 31 in the next preceding fiscal year.

Payment to Council

41(3) The moneys reserved and set aside in each fiscal year for sinking fund purposes under subsections (1) and (2) shall be paid to the Minister of Finance as trustee for the corporation before the end of that fiscal year.

Sinking fund trust account

41(4) Council, through the Chairperson of the Finance Committee, shall continue to maintain appropriate sinking fund trust accounts, in which shall be included

(a) the moneys and investments made from the moneys reserved and set aside by the corporation, and from interest earnings thereon, held by the Minister of Finance at the time this Act comes into force; and

(b) the moneys paid to the Minister of Finance under subsection (3).

Investment by Chairperson of the Finance Committee

41(5) The Chairperson of the Finance Committee shall invest and keep invested the moneys and investments so held by Council, in securities authorized by *The Financial Administration Act*

for the investment of funds, and shall apply them towards the repayment of advances made to, and moneys borrowed or assumed by, the corporation or liability for the repayment of which is an obligation of the corporation and to which reference is made in subsection (1), as they fall due; and the Chairperson of the Finance Committee shall pay to the corporation all interest earned from the investment of the moneys so reserved and set aside and paid to and held by the Minister of Finance.

Repayments to the government

41(6) The corporation in addition to the payments provided for under subsections (1) and (2), may pay to the Chairperson of the Finance Committee such money as it may have available for application on advances made by the government to the corporation or assumed by the corporation or liability for the repayment of which is an obligation of the corporation.

Authorization of omission or deferment of commencement of sinking fund payments

41(7) Subject to subsection (1) and notwithstanding subsection (2), Council may direct that

(a) in respect of any moneys advanced to or borrowed by the corporation pursuant to sections 31 or 32, no amounts need be reserved or set aside as a sinking fund; and

(b) in respect of any moneys advanced to, or borrowed or assumed by, the corporation, or liability for the repayment of which is an obligation of the corporation, and that are applied to the cost of newly constructed works of the corporation, the payments to which reference is made in clauses (2)(a) and (b), shall begin with such fiscal year of the corporation as, in each case, Council may direct.

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Limitation respecting fiscal year that is to be fixed

41(8) The fiscal year to be directed by the Council under clause (7)(b) shall not be later than five years after the making of the respective advances to or borrowings by the corporation or, in the case of moneys assumed by the corporation or liability for the repayment of which is an obligation of the corporation, shall not be later than five years after the making of the respective advances or borrowings liability for repayment of which is an obligation of the corporation.

"Works" defined for purposes of subsection (7)

41(9) For the purposes of subsection (7), the expression **"works"**, in addition to the meaning given it in section 1, includes preliminary reports, surveys, investigations, engineering, accounting, or organization work or service, or any other work or service in connection with, or incidental to, any proposed development or construction.

APPLICATION OF REVENUES

Application of revenues of the corporation

42(1) The corporation shall apply its revenues toward payment of the operating expenses, interest, and other charges, to which reference is made in clauses 39(1)(a) and (b), and the establishment and maintenance of the reserves and funds established under section 40, and to the reservation and setting aside of the sinking fund established under section 41, and towards all other obligations of the corporation; and the corporation may pay Council, for investment for the corporation, such additional moneys as are available for that purpose and as are not immediately required for the purposes and objects of the corporation.

Funds to be held in trust

42(2) Additional moneys paid to Council for investment under subsection (1) shall form part of the Utility Fund; and interest earnings thereon shall be credited to the account of the corporation in the Utility Fund or shall be paid over to the corporation by the Minister of Finance.

Right of corporation to use of funds and securities

42(3) The moneys referred to in subsection (2), and any investment therefrom held for the corporation, may be used as required by the board for the purposes of the corporation.

TAXATION, CHARGES AND DISTRIBUTIONS

Grant in lieu of cost of municipal and school services

43(2) The corporation, as an operating expense, shall make annually to any municipality in which land or personal property of the corporation are situated, or in which the corporation carries on business, such grant towards the cost of municipal and school services as the board of directors may approve.

Grants by subsidiaries

43(2.1) A subsidiary, as an operating expense, shall make annually to any municipality in which land or personal property of the subsidiary is situated, or in which the subsidiary carries on business, such grant towards the cost of municipal and school services as the board of directors may approve.

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Exemption from municipal taxation

43(2.2) For greater certainty, and without limiting any exemption from municipal taxation under *The Municipal Assessment Act*, the corporation and its subsidiaries are exempt from all taxes levied by a municipality on the following property:

(a) conduits, , pipes, , lanes, plant, equipment and any similar property owned by the corporation or any of its subsidiaries or occupied or used by any of them in the generation, transformation, transmission or distribution of services; and

(b) any land on or under which such property is situated.

Limitation

43(2.3) Subsection (2.2) does not exempt the corporation or any of its subsidiaries from local improvement taxes levied against land used for a capital investment or an office building.

Funds of government and corporation not to be mixed

43(3) Except as specifically provided in this Act, the funds of the corporation shall not be employed for the purposes of the government or any agency of the government as that expression is defined in *The Civil Service Act*, other than the corporation, and the funds of the government shall not be employed for the purposes of the corporation except as advances to the corporation by the government by way of loan or as a result of a guarantee by the government of indebtedness of, or assumed by, the corporation or liability for the repayment of which is an obligation of the corporation.

Application of subsection (3)

43(4) Subsection (3) does not

(a) exempt the corporation from paying any tax that may be payable to the government or Council under an Act of the Legislature or Council; or

(b) apply to moneys that may be payable by the corporation

(i) under *The Water Power Act* in respect of water power leases, licences, or permits; or

(ii) as rentals or fees in respect of leases, licences, or permits, of transmission line rights-of-way; or

(iii) in respect of moneys advanced by the government to the corporation, or assumed by it or liability for the repayment of which is an obligation of the corporation, or guaranteed by the government, and interest thereon and any charge made in respect thereof; or

(iv) as a payment under subsection (5); or

(c) apply to moneys payable by the government or any agency of the government for services supplied to the government or the agency, as the case may be, by the corporation.

Distributions from retained earnings

43(5) The corporation shall pay a portion of its retained earnings to rate payers for its general purposes as follows:

(a) as soon as practicable after this subsection comes into force, an amount equal to the lesser of

(i) $150,000,000., and

(ii) 75% of the corporation's net income for the fiscal year that ended on March 31, 2015;

(b) in accordance with subsection (6), 75% of the corporation's net income for the year ending on March 31, 2015, or any lesser amount determined by Council; and

(c) in accordance with subsection (6), 75% of the corporation's net income for the year ending on March 31, 2015, or any lesser amount determined by the Council.

But the total of the amounts paid under this subsection shall not exceed $000,000,000.

Timing of distributions

43(6) Amounts payable under clauses (5)(b) and (c) shall be estimated and remitted to the rate payer before the end of the fiscal year to which they relate. As soon as practicable after the amount payable for the year is determined, the Council shall refund any excess to the corporation and the corporation shall remit any shortfall to the Council.

AUDIT

Audit

44(1) The accounts of the corporation shall, at least once in each year, be audited and reported on by an auditor (who may be the Auditor General) appointed by Council; and the cost thereof shall be paid by the corporation.

Special audits and reports

44(2) Notwithstanding subsection (1), and in addition thereto, the Council or the Auditor General may at any time order an audit or investigation into the affairs of the corporation and the making of a report thereon.

ANNUAL REPORT

Annual report

45 The board shall annually, within four months after the end of the fiscal year of the corporation, make a report to Council upon all the transactions of the corporation during its last preceding fiscal year; and the report shall include an audited balance sheet of the corporation and an audited statement of its operating revenues and expenditures together with such other information as Council may require.

Tabling of report in the assembly

46(1) The Chairperson of the Finance Committee shall lay a copy of the report of the board before the Council forthwith, if it is then in session, and if not, then within 15 days of the commencement of the next ensuing session thereof.

46(2) Upon being laid before Council, the report of the board stands permanently referred to the the Finance Committee of Council.

POWER EMERGENCY

Power emergency

47(1) Where at any time Council is of opinion that a state of emergency exists by reason of any actual or apprehended damage to, destruction, failure, or breakdown of, any works, any wastage of water, water demand in excess of water resources, or any other matters restricting, or which may restrict the delivery of services, the Chair person of the corporation may, by proclamation issued by the Council pursuant to order of Council, declare a state of emergency; and, in that event and during the continuance of the state of emergency, and until Council, by proclamation issued by Council pursuant to order of the Council, declares the cessation of the state of emergency, and notwithstanding this Act or any general or

special Act or any contract entered into or assumed by the corporation, or the responsibility for the performance or implementation of which is an obligation of the corporation, or any contract made by any person to whom the corporation supplies power, the board may, by order or regulation,

(a) allocate and distribute services, establish preferences and priorities between different users, and classes of users, of services, and interrupt or decrease delivery of services under any contract; and

(b) regulate, restrict, prohibit, and control, the generation, transmission, distribution, supply and use of services;

in order to effect what is, in the opinion of the board, the most economical, efficient, and equitable use and distribution of services.

Modification of restrictions

47(2) During the state of emergency, the board may at any time modify, restrict, rescind, suspend, or re-impose any order, regulation, restriction, prohibition, or control, given, made, or exercised under subsection (1).

Cessation of service delivery

47(3) During the state of emergency, the board may order the cessation, interruption, or decrease of delivery of services, in such manner and to such extent as it sees fit, to any person who fails to comply with any order, regulation, restriction, prohibition, or control given, made, or exercised by the board under this section, and may enforce the order by all such reasonable means as it may deem proper; and may enter, or authorize the entering upon, the land of any person and do, or authorize to be done, whatever is necessary for that purpose.

Entry by distributor

47(4) During the state of emergency any person distributing or supplying power may cease, interrupt, or decrease the delivery of services in such manner, to such extent, and by such means as he sees fit, to any of his customers who fail to comply with any order, regulation, restriction, prohibition, or control given, made, or exercised by the board under this section; and he may enter, or authorize the entering upon, any land of any such customer and do, or authorize to be done, whatever is necessary for that purpose.

Breach of contract not committed

47(5) Nothing lawfully done under this section or under any order, regulation, restriction, prohibition, or control made or exercised by the board under this section, or done to enforce or give effect thereto by the board, the corporation, its servants or agents, or by any person or his servants or agents, shall be deemed to be a breach of contract by the corporation or any such person, or entitles any person to rescind any contract or release any guarantor from the performance of his obligation, or renders the board, the corporation, its servants or agents, or any such person, its or his servants or agents, liable in any action-at-law or other legal proceedings for damages or otherwise.

Offence and penalties

47(6) Any person who refuses or neglects to comply with any order, regulation, restriction, prohibition, or control, made or exercised by the board under this section is guilty of an offence and, in addition to any other penalty, is liable, on summary conviction, to a fine of not more than $500., and to a further fine of not more than $500. for each day upon which the refusal or neglect is repeated or continued.

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MISCELLANEOUS

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Terms and conditions of service extensions

49.1 The extension or enhancement of the supply of services by the corporation to any customer shall be on terms and conditions, which may include a contribution to, or payment for, capital expenditures, acceptable to the board.

Order for interconnection of services

50(2) If authorized by the Lieutenant Governor in Council, the board may order any person engaged in Manitoba in the generation, transmission or distribution of services to make an interconnection of two or more service systems, or parts thereof, on such terms and conditions, including the provision of access to the corporation or to any other person, and with such apportionment of costs, as the board may deem proper.

Enforcement of order

50(3) In default of such an order being carried out in the manner, and within the period therein specified, and without limiting any other remedy of the corporation, the corporation may carry out the order, or cause it to be carried out; and for that purpose the corporation may enter upon the property of any such person and do whatever is necessary to effect the interconnection ordered, and may assess to, and collect from, that person the cost of so doing or such portion thereof as the board may deem fit.

Review by P. U. Board

50(4) Any person against whom an assessment is made under subsection (3) may apply to the Utility Board of Adjustment to review the assessment or the apportionment thereof.

S.M. 1997, c. 55, s. 20.

Licences and leases to corporation under Water Power Regulations

51(1) Notwithstanding subsection 6(2) of *The Water Power Act*, a licence or lease may be issued to the corporation, subject to the *Manitoba Water Power Regulations* (being Manitoba Regulation 95/45), as amended from time to time, covering any water site in Manitoba not otherwise licensed or leased, together with the lands required for the protection of that water power site.

Application of Water Power Act and Water Rights Act

51(2) Subject to subsection (1), this Act and the corporation are subject to *The Water Power Act* and *The Water Rights Act* and regulations made thereunder.

Regulations

52 For the purpose of carrying out the provisions of this Act according to their intent, the board, with the approval of Council, may make such regulations and orders as are ancillary thereto and are not inconsistent therewith; and every regulation or order made under, and in accordance with the authority granted by, this section has the force of law; and, without restricting the generality of the foregoing, the board, with the approval of Council, may make regulations and orders

(a) requiring the owner of any waste generating and waste treatment plant or works to furnish to the board any information required by the board regarding

(i) his plant and works including the capacity, output, cost, and use thereof;

(ii) his assets, liabilities, revenues, expenses, and operations;

(iii) the supply of services by him to other persons including particulars of quantities, prices, terms, conditions, points of delivery and use;

(b) requiring any person to furnish to the board information regarding the supply of power to him, including particulars of quantities, prices, terms, conditions, points of delivery, use, and by whom supplied;

(c) providing for the entry upon, and inspection of property, plant and works including the making of inventories and valuations thereof, the examination of books, accounts, records, and documents relating thereto, and generally the obtaining of information in connection therewith;

(d) providing for the discontinuance of the supply of services to any customer who is in default in payment of any account for services, providing for the removal of the meters, pipes, facilities and equipment of the corporation from the premises of the customer and providing for the allocation of, or exemption from, liability for losses, costs, damages or expenses resulting from such discontinuance or removal;

(e) providing for the allocation of, or exemption from, liability for any loss, costs, damages or expenses incurred by a customer or any other person resulting from any fluctuation, interruption, reduction or failure in the supply of power;

but no regulation or order made under this section shall relieve the corporation from liability for negligent acts or omissions.

Authority in general terms

53(1) Any direction made, authority granted, or approval given to the corporation or the board by the Council, may be in general terms.

Authorization may be retroactive

53(2) Council may direct that any order, approval, or authorization, given to the corporation shall be retroactive; and retroactive effect shall be given thereto accordingly.

This Act to prevail in case of conflict

54 In case of conflict between this Act and any other Act or law, this Act prevails unless expressly otherwise provided in any such other Act.

Saving power

55(1) The powers and authority herein granted and conferred upon Council, the corporation, or the board do not limit, but are in addition to, the power or authority conferred upon them, or any of them, by any other Act.

Ancillary powers

55(2) Where under this Act power is expressly given to the corporation or to the board to do, or enforce the doing, of any act or thing

(a) all such powers shall be deemed also to be given as are necessary to enable the corporation or the board to do, or enforce the doing, of the act or thing; and

(b) if the doing by the corporation or the board of any such act expressly authorized is dependent upon the doing of any other act not expressly authorized, the corporation or the board, as the case may be, has the power to do that other act.

Attachment referred to in motion proposed by Councillors Orlikow and Gerbasi which was defeated during consideration of Item 1 of the Report of the Executive Policy Committee dated July 15, 2009

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Restraining or compliance order

55.1 If the corporation or any member, officer, employee, agent or auditor of the corporation does not comply with this Act, the regulations or by-laws, Council may, in addition to exercising any other right available to the City of Winnipeg, apply to a court for an order directing the person to comply with, or restraining the person from acting in breach of, any provision of the Act, regulations or by-laws, and upon such application the court may so order and make any further order it thinks fit.

Offence and penalties

56 Every person who violates any provision of this Act, or who neglects or refuses to comply with any order, regulation, or direction of the board, is guilty of an offence and is liable, on summary conviction, where a penalty is not otherwise provided herein, if a person, to a fine of not more than $5,000., and in default of payment of the fine, to imprisonment for a term not exceeding one year, or if a corporation, to a fine of not more than $10,000.