

## Publisher's Note

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Gowling Lafleur Henderson LLP

## The Electricity Industry in Canada

Electricity has been central to the development and maintenance of the economic and social fabric of Canada for over a century. Every corporation is affected by energy in Canada and those representing the corporation must have an adequate knowledge of the energy industry and why it works. This unique work is a comprehensive review of the electricity industry in every province and territory of Canada. Specific topics covered include: Constitutional Jurisdiction; Nuclear Regulation; Environmental Regulation; Taxation; Real Estate; Import and Export of Electricity; Sale of Electricity; and Conservation & Demand Management. In addition to the commentary and analysis, this important work also provides the full text of all relevant provincial and territorial statutes and regulations as well as an index to selected legal literature and a collection of Words and Phrases that are relevant to energy law and regulation.

This release contains case law annotations and legislative updates for the *Ontario Electricity Act, 1998*. It also includes an updated table of cases.

### Commentary Highlights

**Ontario — *Ontario Electricity Act, 1998* — Section 29: Distributor's Obligation to Sell Electricity** — Section 29 obligates electricity distributors to sell electricity "to every person who is connected to the distributor's distribution system,

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except a person who advises the distributor in writing that the person does not wish to purchase electricity from the distributor.” Section 29 does not obligate anyone to purchase electricity, and a person can opt out if they wished by so notifying the distributor: *R. v. Orlandis-Habsburgo*, 2014 ONSC 3096 (Ont. S.C.J.).

**Ontario — *Ontario Electricity Act, 1998* — Section 40: Powers of Entry** — Police received an anonymous tip about a grow op at residence and caused the power utility to install a digital recording amp meter, tests from which indicated likely presence of electric service by-pass. Under section 40(1), a right of entry was given to the distributor to enter the land on which its distribution system was located including specific authority to read, maintain and repair meters. The application to exclude the evidence was dismissed. The fact that the police knew there was a likelihood that the “moment in time” comparison would be made by Hydro employees did not make the entry onto the private property by Hydro employees a warrant-less trespass and search by the police and therefore state action which abrogated Charter rights: *R. v. Luong*, 2010 ONSC 84 (Ont. S.C.J.).

**Ontario — *Ontario Electricity Act, 1998* — Section 119: Approvals under the *Power Corporation Act*** — Section 119 provided for a deemed Order in Council (“OIC”) in limited circumstances. The 1999 Purchase Power Agreement (“PPA”) was not the subject of a transfer order. As a result, the section 119 transition provision did not provide retroactive OIC approval of the 1999 PPA. Prior to the legislative changes, OIC approval was required: *Power Limited Partnership v. Ontario Electricity Financial Corp.*, 2016 ONSC 4415 (Ont. S.C.J.).