

## **Electricity Act**

### CHAPTER 25

### OF THE

### ACTS OF 2004

amended 2010, c. 14; 2011, c. 15

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An Act Respecting Electricity

Short title

1 This Act may be cited as the Electricity Act. 2004, c. 25, s. 1.

#### Interpretation

2 (1) In this Act,

(a) "Board" means the Nova Scotia Utility and Review Board;

(aa) "Minister" means the Minister of Energy;

(ab) "public utility" means any person that transmits, delivers or furnishes electric power or energy and is regulated as a public utility under the Public Utilities Act;

(b) "wholesale customer" means Nova Scotia Power Incorporated, the electric utilities of the towns of Antigonish, Berwick, Canso, Lunenburg and Mahone Bay and The Electric Light Commissioners for Riverport, in the County of Lunenburg.

(2) Commencing on such date as prescribed in the regulations, "renewable electricity" includes hydroelectricity whether generated in or imported into the Province. 2004, c. 25, s. 2; 2010, c. 14, s. 1; 2011, c. 15, s. 1.

#### Public Utilities Act

2A Notwithstanding Section 117 of the Public Utilities Act, where there is a conflict between this Act and that Act, this Act prevails. 2010, c. 14, s. 2.

#### Minister has supervision and management

2B (1) The Minister has the general supervision and management of this Act and the regulations.

(2) The Minister may establish and administer policies, programs, standards, guidelines, objectives, codes of practice, directives and approval processes under this Act. 2010, c. 14, s. 2.

#### Wholesale customers and electricity

3 (1) Effective on the date prescribed in the regulations and, for greater certainty, notwithstanding Section 303 of the Municipal Government Act, wholesale customers may purchase electricity from any competitive supplier.

(2) Nova Scotia Power Incorporated shall develop and file with the Board for approval an open access transmission tariff to enable the purchase of electricity for the purpose of subsection (1) and, for greater certainty, Section 77 of the Public Utilities Act does not apply.

(3) The tariff referred to in subsection (2) must ensure open and non-discriminatory access to wholesale customers.

(4) Nova Scotia Power Incorporated shall develop and maintain a system to facilitate the import and export of electricity from the Province for the purpose of this Section.

(5) The Board has all the power and authority necessary to implement this Section. 2004, c. 25, s. 3.

#### Program for customer to generate electricity

3A (1) A public utility may develop and maintain a program that will permit any customer to generate electricity for the customer's own use and to sell any excess electricity to the public utility at a rate equivalent to the rate paid by the customer for electricity supplied to the customer by the public utility.

(2) The program must provide that

(a) only electricity generated by a customer that is renewable low-impact electricity qualifies for the program;

(b) as a condition of participation, the customer transfer or assign all emission credits or allowances arising from the use of renewable energy sources to the public utility to enable the public utility to comply with the requirements of any enactment regulating emissions, but for no other purpose;

(c) the capacity of the customer's generator be sized to meet the expected annual consumption of the customer; and

(d) customers may have multiple meters under one account within a defined distribution zone.

(3) Any program developed and maintained pursuant to subsection (1) must receive the approval of the Board before its implementation by the public utility.

(4) On or before November 1, 2010, Nova Scotia Power Incorporated shall submit to the Board for approval a program as described in subsection (1) that permits customers to generate up to one megawatt of electricity. 2010, c. 14, s. 3.

#### Renewable electricity standards

4 (1) Commencing January 1, 2006, or such other date as prescribed in the regulations, a person who sells or supplies electricity to a customer shall comply with the renewable electricity standards set out in the regulations.

(2) Renewable electricity standards referred to in subsection (1) must require that a minimum amount of electricity is produced from renewable sources. 2004, c. 25, s. 4; 2011, c. 15, c. 2.

#### Public Utility

4A (1) A public utility shall

(a) permit generators that qualify under this Section to connect a renewable low-impact electricity-generation facility to its electrical grid in the manner provided by the regulations; and

- (b) pay for the electricity generated in accordance with the tariff set by the Board pursuant to this Section.
- (2) When requested by the Governor in Council, the Board shall set the tariffs to be paid by a public utility pursuant to this Section.
- (3) In setting a tariff pursuant to this Section, the Board shall make allowance for the matters set out in the regulations.
- (4) In setting a tariff pursuant to this Section, the Board shall determine
  - (a) the class or classes of generation facility that qualify for a particular tariff;
  - (b) whether a tariff is to be adjusted periodically and, where it is to be adjusted, the basis for the adjustment;
  - (c) the effective date for commencement of a tariff;
  - (d) the duration of a tariff; and
  - (e) the terms and conditions under which payment is to be made by a public utility to generators.
- (5) In setting a tariff pursuant to this Section, the Board may exercise the same powers and authority granted to it under the Public Utilities Act.
- (6) A public utility is entitled to recover through its rate base the tariffs paid by it pursuant to this Section on the basis approved by the Board under the Public Utilities Act.
- (7) The tariffs set pursuant to this Section apply to renewable low-impact electricity generated by the following classes of generation facilities:
  - (a) wind power;
  - (b) biomass, including the electricity produced from a combined heat and power plant;
  - (c) small-scale in-stream tidal;
  - (d) developmental tidal arrays; and
  - (e) other generation facilities as provided by the regulations.
- (8) In order to qualify as a generator under this Section, the generator must be one of the following and comply with the requirements of the regulations:
  - (a) a council of a band for a band located in the Province as defined under the Indian Act (Canada);
  - (b) a municipality;
  - (c) a not-for-profit body corporate;
  - (d) a community economic-development corporation;
  - (e) a co-operative; or
  - (f) any other entity permitted by the regulations. 2010, c. 14, s. 4.

## Procurement of renewable low-impact electricity

4B (1) Where

(a) a public utility intends to procure renewable low-impact electricity, from one or more independent power producers with generation facilities located in the Province, under a long-term power-purchase agreement; or

(b) the Governor in Council directs a procurement of renewable low-impact electricity from one or more independent power producers with generation facilities located in the Province under a long-term power-purchase agreement,

the Governor in Council may appoint a person to act as a renewable electricity administrator to conduct the procurement.

(2) A renewable electricity administrator appointed under subsection (1) holds office for the term and subject to such conditions as determined by the Governor in Council.

(3) The Board shall fix fees and expenses of a renewable electricity administrator in performing the functions and duties provided in this Section.

(4) The fees and expenses referred to in subsection (3)

(a) must be paid to the renewable electricity administrator by the Board in such amount as determined by the Board; and

(b) may include the cost of retaining experts and legal counsel to provide the renewable electricity administrator with advice on technical and legal matters.

(5) The Board may recover the costs under subsection (4) from public utilities in the same manner it recovers its other expenses under Section 15 of the Public Utilities Act.

(6) A public utility shall provide notice to the Minister at least ninety days before the date it intends to initiate a procurement under clause (1)(a).

(7) Where the Governor in Council appoints a renewable electricity administrator for a procurement under subsection (1), the administrator, instead of the public utility, shall issue a request for proposals and award the contract or contracts for the procurement.

(8) Where the Governor in Council does not appoint a renewable electricity administrator for a procurement under clause (1)(a) within sixty days from the date of receipt of the notice under subsection (6), the public utility may issue a request for proposals and award the contract or contracts for the procurement.

(9) A public utility shall procure all renewable low-impact electricity under a request for proposals that contains the requirements set out in the regulations.

(10) A renewable electricity administrator shall evaluate and choose successful independent power producers and provide a written decision to the public utility and to each bidder in the manner and within the time prescribed by the regulations.

(11) Within thirty days after the receipt of the written decision referred to in subsection (10), the public utility may appeal the decision to the Board for errors of law, jurisdictional errors or breaches of natural justice.

(12) Where a renewable electricity administrator has selected one or more independent power producers for the supply of renewable low-impact electricity to a public utility, the public utility shall enter into the agreements necessary to evidence the procurement.

(13) The Board shall allow a public utility to recover from its rate base the costs of the public utility's contracts referred to in subsection (12) on the basis approved by the Board under the Public Utilities Act, 2010, c. 14, s. 4.

## Regulations

- 5 (1) The Governor in Council may make regulations
- (a) setting out the date for the purpose of subsections 2(2), 3(1) and 4(1);
  - (b) respecting the tariff referred to in subsection 3(2);
  - (c) respecting import and export rights;
  - (d) respecting renewable electricity standards, their administration and enforcement;
  - (da) prescribing terms and conditions required to be included in a power-purchase agreement;
  - (db) prescribing costs to be recovered in a tariff set by Board;
  - (dc) prescribing the terms that independent power producers are required to meet to qualify for the program under Section 4A;
  - (dd) prescribing types of generation facilities for the purpose of clause 4A(7)(e);
  - (de) prescribing the form of application and the procedure for considering an application by a generator to participate in the program under Section 4A;
  - (df) delegating responsibilities to a renewable electricity administrator;
  - (dg) respecting the certification or decertification of generation facilities;
  - (dh) respecting the monitoring of generation facilities for compliance with this Act and the regulations;
  - (di) respecting the interconnection of generation facilities with the electrical grid;
  - (dj) prescribing entities for the purpose of clause 4A(8)(f);
  - (dk) providing for the development of terms and conditions required to be included in a request for proposals;
  - (dl) prescribing the contents of any notice required to be given to the Minister by a public utility;
  - (dm) prescribing the qualifications for a renewable electricity administrator;
  - (dn) assigning additional responsibilities to a renewable electricity administrator;
  - (do) requiring compliance by a renewable electricity administrator with policies and procedures;
  - (dp) respecting records to be maintained by, reporting by and the audit of the records of a renewable electricity administrator;

- (dq) respecting written decisions of a renewable electricity administrator;
  - (dr) authorizing the Minister to appoint a renewable electricity standard regulations administrator and describing the duties and responsibilities of the administrator;
  - (ds) providing for administrative penalties to be assessed by a renewable electricity standard regulations administrator in order to enforce compliance with the regulations;
  - (dt) providing for appeals or reviews of the decisions of a renewable electricity standard regulations administrator by the Board;
  - (du) respecting standards that biomass sources must meet in order to qualify as a source of renewable low-impact electricity;
  - (e) defining any word or expression used but not defined in this Act;
  - (f) respecting any other matter the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.
- (1A) The Minister shall make regulations requiring the achievement of forty per cent renewable electricity by 2020.
- (2) The exercise by the Governor in Council of the authority contained in this Section is regulations within the meaning of the Regulations Act. 2004, c. 25, s. 5; 2010, c. 14, s. 5; 2011, c. 15, s. 3.

#### Proclamation

6 This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2004, c. 25, s. 6.

Proclaimed - January 22, 2007  
In force- February 1, 2007