

## **Renewable Energy Standard Regulations**

made under Section 5 of the

Electricity Act

S.N.S. 2004, c. 25

O.I.C. 2007-42 (January 22, 2007, effective February 1, 2007), N.S. Reg. 35/2007

as amended up to O.I.C. 2009-437 (October 6, 2009), N.S. Reg. 303/2009

### Citation

1 These regulations may be cited as the Renewable Energy Standard Regulations.

### Interpretation

2 In these regulations,

(a) “Administrator” means a person designated by the Minister under Section 4 of these regulations and includes an acting administrator;

(b) “Act” means the Electricity Act;

(c) “Board” means the Nova Scotia Utility and Review Board;

(d) “certified”, in reference to a renewable energy generation facility, means certified by the Administrator in accordance with Section 7;

Clause 2(d) amended: O.I.C. 2009-437, N.S. Reg. 303/2009.

(e) “Department” means the Department of Energy;

(f) “designated representative” means the person authorized to act as the representative of a renewable energy generator and whose acts and omissions are binding on it;

(g) “independent power producer” means a generator, other than an electric utility, that owns or operates an electricity generation facility and sells electricity

(i) in the Province to electric utilities for retail sales to the utilities’ customers, or

(ii) for export to electric utilities outside of the Province;

(h) “load serving entity” means any one of the following:

(i) NSPI,

(ii) a municipal electric utility that purchases any or all of its electricity supply from a supplier other than NSPI,

(iii) an independent power producer who exports electricity;

(i) “Minister” means the Minister of Energy;

(j) “municipal electric utility” means the electrical utility for any one of the following:

(i) the Town of Antigonish,

(ii) the Town of Berwick,

(iii) the Town of Canso,

(iv) the Town of Lunenburg,

(v) the Town of Mahone Bay,

(vi) The Electric Light Commissioners for Riverport, in the County of Lunenburg;

(k) “NSPI” means Nova Scotia Power Incorporated;

(l) “renewable energy generator” means a person who owns or operates a renewable energy generation facility;

(m) “renewable energy generation facility” means a facility that generates electricity from renewable low impact electricity and is certified;

(n) “renewable energy standard” means a target share or amount of renewable low impact electricity to be supplied by a load serving entity;

(o) “renewable low impact electricity” means electric energy produced from any source of renewable energy that is able to be replenished by natural processes within a reasonable length of time, and within 80 years at the latest, and includes, but is not limited to, all of the following:

- (i) solar energy,
- (ii) wind energy,
- (iii) biomass,
- (iv) run-of-the-river hydroelectric energy,
- (v) ocean-powered energy,
- (vi) tidal energy,
- (vii) wave energy,
- (viii) landfill gas,
- (ix) liquid biofuel and other biogas energy;

(p) “run-of-the-river hydroelectric electricity” means electricity generated from flowing water that includes the use of a dam structure that causes minimum environmental effect on the river course.

#### Minister’s powers

3 The Minister may direct the Administrator or the Board to inquire into and report on any matter under the Act or these regulations that the Minister considers necessary or advisable to carry out effectively the intent and purpose of the Act.

#### Administrator

4 (1) The Minister must designate an Administrator to administer these regulations.

(2) The Administrator is responsible for preparing

(a) interpretations of these regulations; and

(b) policies, standards and guidelines under these regulations.

(3) The Board must be sent final copies of documents prepared under subsection (2) and must comply with them in fulfilling its duties under the Act or these regulations.

#### Renewable energy standard 2011

5 (1) In each of the calendar years 2011 and 2012, each load serving entity must supply its customers with renewable low impact electricity in an amount equal to or greater than 5% of its total sales for that year. Subsection 5(1) replaced: O.I.C. 2009-437, N.S. Reg. 303/2009.

(2) Each load serving entity must meet the renewable energy standard in subsection (1) by supplying renewable low impact electricity produced by a renewable energy generation facility.

(3) Subject to subsection (4), NSPI must purchase from independent power producers enough renewable low impact electricity to meet the renewable energy standard in subsection (1) for both its own retail sales and for sales to the 6 municipal electric utilities.

(4) To meet the renewable energy standard in subsection (1), a municipal electric utility that purchases any of its electricity supply from a person other than NSPI must ensure that a minimum of 5% of that non-NSPI electricity supply is supplied by a generator of renewable low impact electricity.

#### Renewable energy standard 2013

6 (1) Each year beginning with the calendar year 2013, each load serving entity must supply its customers with renewable low impact electricity in an amount equal to or greater than 10% of its total sales for that year.

(2) Each load serving entity must meet the renewable energy standard in subsection (1) by supplying renewable low impact electricity produced by a renewable energy generation facility.

(3) Subject to subsection (4), NSPI must meet the renewable energy standard in subsection (1) as follows:

(a) by continuing to meet the 2011 standard by complying with subsection 5(3); and  
Clause 6(3)(a) amended: O.I.C. 2009-437, N.S. Reg. 303/2009.

(b) by acquiring the additional renewable low impact electricity to meet the standard in subsection (1) from independent power producers or from its own renewable energy generation facilities.

(4) To meet the renewable energy standard in subsection (1), a municipal electric utility that purchases any of its electricity supply from a person other than NSPI must ensure that a minimum of 10% of that non-NSPI electricity supply is supplied by a generator of renewable low impact electricity.

#### Renewable energy generation facility certification

7 (1) A renewable energy generator or its designated representative may apply to the Administrator for certification of a facility as a renewable energy generation facility.

(2) The Administrator must certify a facility that supplies a load serving entity with electricity to be a renewable energy generation facility if all of the following conditions are met:

(a) the facility is located in the Province, which includes marine waters in the Province;

(b) the facility is owned or operated by an independent power producer or, for the purposes of subsection 6(3), is owned or operated by NSPI;

(c) the facility produces electricity from renewable low impact electricity;

(d) the facility was constructed

(i) on or after December 31, 2001, or

(ii) before December 31, 2001, and has

(A) increased its output since December 31, 2001, by expanding or through technology upgrades, or

(B) undergone a major rebuild in lieu of retirement since December 31, 2001;

(e) the facility has obtained all approvals and complies with all applicable laws and regulations.

(3) For a facility described in paragraph (2)[(d)](ii)(A), only the incremental capacity resulting from the increase in output since December 31, 2001, is counted toward the renewable energy standard.

(4) The Administrator may prescribe the terms and conditions of a certification issued under subsection (1).

(5) A certification issued by the Administrator must not be transferred without the written approval of the Administrator.

(6) The Administrator must monitor each renewable energy generation facility to ensure all of the following:

(i) that the facility continues to meet all conditions prescribed in subsection (2),

(ii) that the facility's sales levels of electricity output do not exceed production supply levels.

#### Administrator's powers

8 The Administrator has all the power and authority necessary to implement, administer and enforce these regulations, including the power to issue directions or orders, and may do all of the following:

(a) establish a process for certifying and monitoring renewable energy generation facilities and monitoring renewable energy generators;

(b) establish accounts and records for a renewable energy generator or its designated representative;

(c) establish registries of renewable energy generation facilities and information that the Administrator determines to be necessary;

(d) determine for each renewable energy generation facility the amount of renewable low impact electricity generated at December 31, 2001, and the load serving entity's total electricity sales in a calendar year;

(e) establish criteria for how the electricity output of the facility is physically metered and how the accuracy of the revenue class, industry standard metering is to be tested;

(f) audit certified renewable energy generation facilities as necessary to verify the accuracy of metered production data;

(g) suspend or revoke a certification issued under Section 7;

(h) do anything necessary to ensure that the requirements of these regulations are met.

#### Reporting requirements

9 (1) Each load serving entity must report to the Board annually, or at other intervals determined by the Board, to outline its progress in meeting the requirements of these regulations.

(2) The Board may specify the form and content of the progress report.

(3) The Board may issue directions or orders to ensure that the requirements of this Section are met.

#### Review by Board

10 On application by any person, the Board may review an action or decision of the Administrator under Section 7 or 8.

#### Appeals to the Board

11 (1) The Board may hear appeals from actions or decisions of the Administrator under Section 7.

(2) A person who is subject to an order or direction made by the Administrator may appeal the order or direction to the Board.

#### Board powers

12 The powers of the Board respecting a hearing or an appeal under the Utility and Review Board Act and the Public Utilities Act and regulations made under those Acts apply to a review or appeal under these regulations.

#### Standard shortfall

13 A load serving entity who fails by December 31 to meet a renewable energy standard prescribed in Section 5 or 6 must, within 1 year from that date, make up the shortfall of the renewable low impact electricity by supplying twice the amount of the deficiency.

#### Penalties and enforcement

14 (1) A person is liable to a daily penalty of no more than \$500 000, if they do any of the following:

(a) fail to comply with these regulations;

(b) fail, neglect, omit or otherwise refuse to do any act or thing required under these regulations;

(c) fail, neglect, omit or otherwise refuse to comply with a direction or order of the Administrator or the Board made under these regulations.

Section 14 renumbered 14(1): O.I.C. 2007-569, N.S. Reg. 416/2007.

(2) Unless otherwise provided in the Act, a person is not subject to a penalty under subsection (1) if the person establishes that they

(a) exercised due diligence; or

(b) reasonably and honestly believed in the existence of facts that, if true, would render the conduct of the person excusable.

Section 14(2) added: O.I.C. 2007-569, N.S. Reg. 416/2007.

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