

DRAFT Renewable Electricity Regulations (includes proposed language for amendments)

Interpretation

Citation

1 These regulations may be cited as the Renewable Electricity Regulations.

Definitions for these regulations

2 In these regulations,

"Act" means the Electricity Act;

"designated lands" has the same meaning as in the Indian Act;

"distribution system" means a system for conveying electricity at voltages of less than 69 kV;

"electricity standard approval" means an approval issued under Section 14 to approve a generation facility as a renewable low-impact electricity generation facility for the purposes of the renewable electricity standards;

"feed-in tariff program" means the program established by Section 4A of the Act under which a public utility permits a generator to connect an electricity generation facility to the public utility's electrical grid;

"feed-in tariff approval" means an approval issued under Section 28 for an electricity generation facility that qualifies for the feed-in tariff program;

Afirm@ means, in respect of a renewable low-impact electricity generation facility, a facility that, under normal operating conditions, has the ability to operate at its full rated capacity through the control of its operator rather than having its output dependent upon the availability of the input source of energy, whether the facility has been placed in service before or after December 31, 2001

"heritage renewable electricity" means all electricity that was contracted for or supplied by a load-serving entity in the Province before January 1, 2002, and that, in the opinion of the Minister, is generated from renewable sources;

"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 that exports electricity;

"municipal electric utility" means any of the following:

(i) the electrical utility for

(A) the Town of Antigonish,

(B) the Town of Berwick,

(C) the Town of Canso,

(D) the Town of Lunenburg, or

(E) the Town of Mahone Bay,

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

AMuskrat Falls Generating Station@ means the 824 Mw generating facility proposed to be constructed as part of the Lower Churchill Project in the province of Newfoundland and Labrador

"NSPI" means Nova Scotia Power Incorporated;

"primary forest biomass" means biomass produced from primary forest products harvested in the Province and first used as a fuel;

"primary forest products" means primary forest products as defined in the Forests Act;

"renewable electricity" means all of the following:

(i) heritage renewable electricity,

(ii) renewable low-impact electricity generated after December 31, 2001,

(iii) for the purposes of meeting the renewable electricity standard in Section 6A, hydroelectricity, whether generated in or imported into the Province.

(iv) imported electricity that in the opinion of the Minister is generated from renewable sources;

"renewable electricity administrator" means the renewable electricity administrator appointed under subsection 4B(1) of the Act to conduct a procurement of renewable low-impact electricity;

"renewable electricity standard" means a target share or amount of renewable electricity to be supplied by a load-serving entity as prescribed by these regulations;

"renewable low-impact electricity generation facility" means a facility in the Province that generates renewable low-impact electricity and has received all approvals and permits required under these regulations or any other applicable enactment;

"renewable low-impact electricity generator" means a person who owns or operates a renewable low-impact electricity generation facility in the Province;

"run-of-the-river hydroelectric" means electricity that is generated from flowing water in a river with minimal environmental effect on the river course and that may include the use of a dam structure;

"transmission system" means a system for conveying electricity at voltages of 69 kV or more;

"university" means a designated university within the meaning of the University Foundations Act;

"untreated organic material" means organic material that has not been treated or organic material that has been treated in conformance with a government policy or regulation respecting the material.

Definitions for the Act and these regulations

3 (1) In the Act and these regulations,

"biomass" means untreated organic material and includes material that has been processed so as to change its size, shape, density, moisture level, or degree of purity, and secondary waste by-products from its processing, but does not include material for which other diversion methods are viable or the treated by-products of manufacturing processes;

"community economic-development corporation" means a community economic-development corporation as defined in the Equity Tax Credit Act;

"cooperative" means a cooperative incorporated under the Co-operative Associations Act;

"developmental tidal array" means a generation facility that consists of 1 or more tidal generation devices with a capacity of greater than .5 MW each and that is capable of being interconnected with the electrical grid through a transmission system; and

"independent power producer" means a renewable low-impact electricity generator

(i) of which no more than 49% of the securities entitling the holders to vote for the election of its directors are held by a public utility in combination with any affiliate of the public utility, and

(ii) that sells electricity

(A) in the Province to public utilities for retail sales to the utilities' customers, or

(B) for export outside of the Province;

"municipality" means a regional municipality, a town or a county or district municipality;

"not-for-profit body corporate" means a corporation operated on the basis that no member, officer, director or employee of the corporation may share in any operating surplus of the corporation;

"renewable low-impact electricity" means electricity produced from any of the following:

- (i) solar energy,
- (ii) wind energy,
- (iii) run-of-the-river hydroelectric energy,
- (iv) ocean-powered energy,
- (v) tidal energy,
- (vi) wave energy,
- (vii) biomass that has been harvested in a sustainable manner,
- (viii) landfill gas,
- (ix) any resource that, in the opinion of the Minister and consistent with Canadian standards, is able to be replenished through natural processes or through sustainable management practices so that the resource is not depleted at current levels of consumption;

"small-scale in-stream tidal" means a tidal generation device with a capacity of .5 MW or less that is capable of being interconnected with the electrical grid through a distribution system.

(2) For the purposes of subclause (i) of the definition of "independent power producer" in subsection (1),

(a) a corporation is deemed to be an affiliate of another corporation if 1 of them is the subsidiary of the other or if both are subsidiaries of the same corporation or if each of them is controlled by the same person;

(b) a corporation is deemed to be controlled by another person or by 2 or more corporations if

(i) voting securities of the 1st-mentioned corporation carrying more than 50% of the votes for the election of directors are held, other than by way of security only, by or for the benefit of the other person or by or for the benefit of the other corporations, and

(ii) the votes carried by those securities are entitled, if exercised, to elect a majority of the directors of the 1st-mentioned corporation; and

(c) a corporation is deemed to be a subsidiary of another corporation if

(i) it is controlled by

(A) that other, or

(B) that other and 1 or more corporation, each of which is controlled by that other, or

(C) 2 or more corporations, each of which is controlled by that other, or

(ii) it is a subsidiary of a corporation that is that other's subsidiary.

Renewable Electricity Standards

Renewable electricity standard 2011

4 (1) In each of the calendar years 2011 and 2012, each load-serving entity must supply its customers with renewable low-impact electricity produced by renewable low-impact electricity generation facilities operated by independent power producers in an amount equal to or greater than 5% of its total sales for that year.

(2) To meet the renewable electricity standard in subsection (1), a municipal electric utility that purchases any of its electricity supply from a supplier other than NSPI must ensure that at

least 5% of that non-NSPI electricity supply is supplied by a renewable low-impact electricity generator.

Renewable electricity standard 2013

5 (1) In each of the calendar years 2013 and 2014, each load-serving entity must supply its customers with renewable low-impact electricity produced by renewable low-impact electricity generation facilities 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 electricity standard in subsection (1) as follows:

(a) by continuing to supply 5% of its total annual sales from independent power producers; and

(b) by acquiring the additional renewable low-impact electricity required to meet the standard from either independent power producers or from its own renewable low-impact electricity generation facilities.

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

Renewable electricity standard 2015

6 (1) Each year beginning with the calendar year 2015, each load-serving entity must supply its customers with renewable electricity in an amount equal to or greater than 25% of its total sales for that year.

(2) Except as provided in clause (4)(d), the renewable electricity referred to in subsection (1) must be produced by a renewable electricity generation facility.

(3) To meet the renewable electricity standard in subsection (1), NSPI must

(a) continue to supply 5% of its total sales from independent power producers;

(b) in addition to the renewable low-impact electricity required to meet requirements of Sections 4 and 5, acquire at least 300 Gwh from independent power producers; and

(c) produce at least 300 Gwh from wind renewable low-impact electricity generation facilities owned or operated by NSPI that is incremental to generation from wind generation facilities approved under these regulations after September 1, 2011.

(4) In addition to the requirements in subsection (1), to meet the renewable electricity standard in subsection (1), NSPI may do one or a combination of any of the following:

- (a) generate no more than 150 GWh from co-firing non-primary forest biomass at its generation facilities;
- (b) use the contribution of any GWhs acquired under the feed-in tariff program;
- (c) use the contribution from renewable low-impact electricity generating facilities that it owns or operates;
- (d) use other sources of renewable electricity.

(5) To meet the renewable electricity standard in subsection (1), a municipal electric utility that purchases any of its electricity supply from a supplier other than NSPI must ensure that a minimum of 25% of that non-NSPI electricity supply is renewable electricity.

Renewable Electricity Standard 2020

6A (1) Each year beginning with the calendar year 2020, each load-serving entity must supply its customers with renewable electricity in an amount equal to or greater than 40% of its total sales for that year.

(2) To meet the renewable electricity standard in subsection (1) NSPI must

- (a) continue the supplies from independent power producers provided for in clauses 6(3)(a) and (b);
- (b) continue the supplies contemplated in subsection 6(4); and
- (c) provided the Muskrat Falls Generating Station and the associated transmission infrastructure has been completed and is in normal operation;
 - (A) acquire 20% of electricity generated by the Muskrat Falls Generating Station; and
 - (B) acquire 200 Gwh of electricity from the Muskrat Falls Generating Station for each of the first five calendar years following the commencement of commercial operation.

(3) If NSPI uses imported hydroelectricity to meet the renewable electricity standard in subsection (1) the contract governing the import must be governed by the laws of the

Province and disputes under the contract must be subject to the exclusive jurisdiction of the courts of the Province.

(4) To meet the renewable electricity standard in subsection (1), a municipal electric utility that purchases any of its electricity supply from a supplier other than NSPI must ensure a minimum of 40% of that non-NSPI electricity supply is renewable electricity.

Firm Supply

6B(1) Starting in the calendar year 2015, for every 3 Gwh of non-firm renewable electricity sales, NSPI must acquire at least 1 Gwh of firm electricity supply from Nova Scotia sources or from the Muskrat Falls Generating Station.

(2) For the purposes of subsection (1) the firm electricity supply may come from facilities owned by NSPI or from facilities under contract with NSPI.

Shortfalls and Overages

7 (1) If a load-serving entity is of the opinion that it may be unable to meet a renewable electricity standard because of the inability of independent power producers to provide contracted electricity supplies at the contracted times, the load-serving entity must supply sufficient renewable electricity from other sources to make up the shortfall for a period not to exceed 12 months.

(2) If, on application by a load-serving entity, the Minister is of the opinion that the load-serving entity will be unable to meet a renewable electricity standard as described in subsection (1) for a period longer than 12 months, the Minister may permit the load-serving entity to supply sufficient renewable electricity from other sources to make up the shortfall on any terms and conditions that the Minister determines.

(3) The Board shall allow a public utility to recover from its rate base tariffs paid under Section 4A of the Act and the costs of the public utility=s contracts with independent power producers that have an electricity standard approval, on the basis approved by the Board under the *Public Utilities Act* provided the costs are not incurred more than 24 months before the start of the calendar year to which a renewable electricity standard applies and provided the costs are in relation to supplies of no more than

(a) 33% of the renewable electricity standard requirement in respect of the standard under Section 5;

(b) 20% of the renewable electricity standard requirement in respect of the standard under Section 6;

(c) 10% of the renewable electricity standard requirement in respect of the standard under Section 6A.

(4) In calculating the percentages in clauses (3)(a), (b), and (c), hydroelectricity acquired under clause 6A(2)(c) shall be excluded.

Forest biomass cap

8 (1) No more than 350 000 dry tonnes annually of primary forest biomass over the average amount of primary forest biomass consumed annually in the Province for the years 1995 to 2005 may be used to attain any renewable electricity standard.

(2) For the purposes of a renewable low-impact electricity generation facility that uses primary forest biomass, only the amount of electricity the Minister determines is generated from the use of primary forest biomass as permitted by subsection (1) qualifies for any renewable electricity standard.

(3) Electricity generated by co-firing primary forest biomass may not be used to attain any renewable electricity standard.

Minister's determination

9 For each calendar year starting with the year 2011, the Minister must determine, for each load-serving entity,

(a) its total electricity sales;

(b) the total amount of renewable low-impact electricity that it produced; and

(c) the proportion of its total supply of renewable low-impact electricity that was produced by independent power producers.

Qualifying for renewable electricity standards

10 (1) Electricity purchased by a public utility under the feed-in tariff program qualifies for any renewable electricity standard.

(2) Any person other than a person who has been issued a feed-in tariff approval may apply to the Minister for an electricity standard approval.

Applying for electricity standard approval

11 An application for an electricity standard approval must (a) be submitted to the Minister in a form required by the Minister; ~~and~~ (b) be completed and signed by an authorized signatory of the applicant; and

(c) for a biomass project, include a biomass fuel procurement plan outlining how the applicant intends to ensure that its fuel supply will meet sustainable harvesting requirements.

Incomplete application for electricity standard approval

12 (1) If an application for an electricity standard approval is not complete or additional information is required, the Minister must notify the applicant in writing no later than 90 days after receipt of the application and request the information necessary to make the application complete.

(2) If the information requested under subsection (1) is not provided by the applicant within 90 days of the request, the Minister may reject the application and, if so, must immediately notify the applicant in writing that the application has been rejected.

Criteria for approval of application for electricity standard approval

13 (1) The Minister must approve an application for an electricity standard approval if the generation facility

(a) is to be located in the Province, including the marine waters in the Province;

(b) will produce renewable low-impact electricity;

(c) was constructed before December 31, 2001, it has increased its output since December 31, 2001,

(i) by having expanded or through technology upgrades, or

(ii) by having undergone a major rebuild in lieu of retirement; and

(d) where the project is a biomass project, the Minister is satisfied that the biomass fuel procurement plan demonstrates that the applicant will meet sustainable harvesting requirements.

(2) For a facility described in clause (1)(c), only the output that exceeds the capacity of the facility before the expansion, upgrade or major rebuild qualifies for the 2011 and 2013 electricity standards in Sections 4 and 5.

Issuance of electricity standard approval

14 On approving an application for an electricity standard approval, the Minister must issue the applicant an electricity standard approval subject to any terms and conditions that the Minister determines are appropriate.

Minister's approval required to transfer electricity standard approval

15 An electricity standard approval must not be transferred without the prior written approval of the Minister.

Approved facility must continue to meet requirements

16 A renewable low-impact electricity generation facility that is issued an electricity standard approval must meet all of the following requirements:

- (a) it must continue to meet the requirements of these regulations;
- (b) its electricity sales must not exceed its electricity production;
- (c) if the electricity is to qualify for a renewable electricity standard, all emission credits or allowances arising from the use of renewable sources for electricity produced by the facility and sold to a public utility must be transferred or assigned to the public utility purchasing the electricity.

Transitional

17 A certification issued under Section 7 of the Renewable Energy Standard Regulations made under the Act is continued as an electricity standard approval.

Feed-in Tariff Program

Tariffs to be set by Board

18 (1) For the purposes of clause 4A(7)(e) of the Act, a run-of-the-river hydroelectric generation facility is a class of generation facility to which a tariff applies.

(2) Subject to subsections (3) and (4), the Board must set a tariff for all of the following classes of electricity generation facility:

(a) all of the following, as required by clauses 4A(7)(a) to (d) of the Act:

- (i) wind power,
- (ii) biomass,
- (iii) small-scale in-stream tidal arrays,
- (iv) developmental tidal arrays;

(b) run-of-the-river hydroelectric.

(3) The Board must set separate tariffs for wind power with a capacity greater than 50 kW and wind power with a capacity of 50 kW or less.

(4) The tariff for biomass must apply only to the electricity produced from a combined heat and power plant.

Setting community feed-in tariff

19 (1) In this Section and in Section 20, "community feed-in tariff" means a tariff set by the Board for any class of generation facility referred to in Section 18 except for a developmental tidal array.

(2) In setting a community feed-in tariff, the Board must determine, for each class of generation facility, the cost of the physical assets of a facility and may make allowances for any of the following matters:

- (a) depreciation;
- (b) cost of labour and supervision;
- (c) necessary working capital;
- (d) organization expenses;

(e) overhead costs for engineering, superintendence, legal services, taxes and interest during planning and construction, and similar matters not included in the cost of the physical assets;

(f) costs in whole or in part of land acquired in reasonable anticipation of future requirements;

(g) costs to interconnect the generation facility with the electrical grid;

(h) return on investment;

(i) additional matters that the Board considers appropriate.

Community feed-in tariff qualifications

20 (1) For the purposes of clause 4A(8)(f) of the Act, in addition to the entities listed in clauses 4A(8)(a) to (e) of the Act, each of the following entities qualifies as a generator that may participate in the feed-in tariff program:

(a) a university

(b) a wholly owned subsidiary of a municipality;

(2) To qualify for a community feed-in tariff, a generation facility must be owned by one or a combination of any of the following:

(a) a municipality or a wholly owned subsidiary of a municipality;

(b) a Mi'kmaq band council;

(c) a cooperative of which a majority of members reside in the Province and at least 25 members reside in the municipality where the generation facility is located;

(d) a not-for-profit body corporate of which a majority of members reside in the Province and at least 25 members reside in the municipality where the generation facility is located;

(e) a community economic-development corporation of which at least 25 shareholders or members reside in the municipality where the generation facility is located;

(f) a university.

(3) In addition to the ownership requirements in subsection (2), to qualify for a community feed-in tariff, a generation facility must meet all of the following requirements:

(a) it must be a generation facility in a class to which a community feed-in tariff applies in accordance with subsection 19(1);

- (b) if it uses biomass, it must be a combined heat and power generation facility;
- (c) it must interconnect with the electrical grid through a distribution system;
- (d) subject to clauses (e) and (f), it must be located in the Province;

(e) if it is wholly owned by a municipality or a wholly owned subsidiary of a municipality, it must be located within the boundaries of that municipality or the boundaries of an immediately adjacent municipality;

(f) if it is wholly owned by a Mi'kmaq band council, it must be located on designated lands or lands acquired by a Mi'kmaq band council through a transfer of fee simple, a transfer from the Crown or a Crown corporation; or a transfer from any private interest in possession of Crown lands under their direct authority;

(g) it must have been issued a feed-in tariff approval; and

(h) if it is owned in whole or in part by a cooperative, a not-for-profit body corporate, or a community development corporation at least 25% of the capital, whether debt or equity, used to construct or acquire the generation facility must be raised in the Province.

(4) For the purposes of subsection (2), an entity owns a generation facility if it holds at least a majority ownership interest in the generation facility or in an entity that owns the generation facility.

(5) The ownership requirements in subsection 4A(8) of the Act and in subsection (2) do not apply to a combined heat and power generation facility described in clause (3)(b) if the heat is consumed or used by the renewable electricity generator or an affiliate of the renewable electricity generator.

Setting developmental tidal array tariff

21 In setting a tariff for developmental tidal arrays, the Board must take into account those matters described in subsection 19(2), including the costs for the manufacture, deployment and operation of the developmental tidal array, but must not make any allowance for any of the following matters:

- (a) costs covered or reimbursed through any government grant;
- (b) costs to interconnect the generation facility with the electrical grid.

Developmental tidal array tariff qualifications

22 To qualify for a developmental tidal array tariff, a generation facility must meet all of the following requirements:

- (a) it must be located in the Province;
- (b) it must meet the definition of "developmental tidal array" in these regulations;
- (c) it must interconnect with the electrical grid through a transmission system;
- (d) it must have been issued a feed-in tariff approval.

Applying for feed-in tariff approval

23 An application for a feed-in tariff approval must be

- (a) submitted to the Minister in a form or manner required by the Minister, which may include filing electronically through the Internet; and
- (b) completed and signed by an authorized signatory of the applicant.

Contents of application for feed-in tariff approval

24 An application for a feed-in tariff approval must include all of the following information or documentation:

- (a) the name, address, e-mail address and telephone and fax number of the applicant and the name, title and address of the person to be contacted about the application;
- (b) if applicable, proof of current registration with the Nova Scotia Registry of Joint Stock Companies;
- (c) evidence that the applicant qualifies for the feed-in tariff program;
- (d) a project concept identifying the type of generation facility proposed and the community in which the project will be located;
- (e) documentation demonstrating that the applicant has knowledge of the municipal by-laws that apply to the project and a commitment to comply with them;
- (f) documentation identifying any local Mi'kmaq communities that may be impacted by the project and demonstrating an acceptable means of engaging those Mi'kmaq communities to identify any of their concerns or interests, including interests in participation as owners, investors or suppliers;
- (g) evidence of community support for the project, which may include

(i) a municipal council resolution from the municipality within which the project is to be located indicating support for the project, and

(ii) letters or other written evidence of support for the project from members of the community in which the project is to be located;

(h) documentation demonstrating the applicant's knowledge and understanding of the type and scope of environmental approvals required for the project, including a statement of the environmental impact of the project;

(i) a business case that

(i) includes a resource assessment,

(ii) demonstrates the financial viability of the project at the appropriate tariff rate, and

(iii) includes the projected capital costs of the project, including interconnection costs and the cost of and expected sources of capital;

(j) documentation demonstrating the applicant's knowledge of the requirements for an archaeological or heritage site review, including a plan for completing the review with cost and timing implications for the project;

(k) documentation demonstrating the applicant's knowledge of the land ownership and access issues for the proposed project site;

(l) evidence of discussions with NSPI on the technology requirements for the project, including the availability of capacity on the distribution or transmission system for the project, as the case may be;

(m) documentation demonstrating an understanding of the detailed technical studies required for the project, including the costs of the studies;

(n) documentation demonstrating compliance with the ownership requirements in subsection 4A(8) of the Act and, if applicable, of subsection 20(3);

(o) for a biomass project, a biomass fuel procurement plan outlining how the applicant intends to ensure that its fuel supply will meet sustainable harvesting requirements;_

(oa) if it is owned in whole or in part by a cooperative, a not-for-profit body corporate or a community development corporation, a statement showing how it intends to comply with the requirements of clause 20(3)(h); and

(p) any additional information or documentation required by the Minister.

Designated representatives

25 (1) An applicant for a feed-in tariff approval must designate a representative in writing in a form required by the Minister and file the designation with the Minister.

(2) Once designated, a representative of an applicant or approval holder has sole responsibility on behalf of the applicant or approval holder for

(a) corresponding with the Minister with respect to any application or approval or the administration of these regulations, whether by written or electronic means; and

(b) any additional duties that are specified in a feed-in tariff approval issued to the applicant or approval holder.

(3) An applicant or approval holder is responsible for advising its representative of the representative's obligations under these regulations.

(4) An applicant or approval holder is liable for the acts or omissions of its representative with respect to any matter to which the authority of the representative extends.

(5) A representative continues as a representative unless another representative is substituted as provided for in subsection (8).

(6) The Minister may rely, without detriment, on any representations made or actions taken by a representative.

(7) An applicant or approval holder is deemed to have notice of all correspondence from the Minister that is directed through the representative.

(8) An applicant or approval holder may, on giving the Minister 30 days' notice in writing, substitute another representative by filing a new designation with the Minister, and on filing, the former designation is revoked.

(9) A reference in these regulations to an applicant or the holder of a feed-in tariff approval includes the representative of the applicant or the approval holder.

Use of information

26 The information in an application for a feed-in tariff approval may be shared with other departments or agencies of the government or a load-serving entity in order to complete the application process.

Incomplete application for feed-in tariff approval

27 (1) If an application for a feed-in tariff approval is not complete or additional information is required, the Minister must notify the applicant in writing no later than 90 days after receipt of the application and request the information necessary to make the application complete.

(2) If the information requested under subsection (1) is not provided by the applicant within 90 days of the request, the Minister may reject the application and, if so, must immediately notify the applicant in writing that the application has been rejected.

Approval or rejection of application for feed-in tariff approval

28 (1) The Minister may approve or reject an application for a feed-in tariff approval that satisfies the requirements of the Act and these regulations.

(2) For wind power generation facilities with a capacity of 50 kW or less, feed-in tariff approvals must be issued for no more than a maximum of 5 mW total capacity.

(3) On approving or rejecting an application, the Minister must notify the applicant accordingly.

(4) On approving an application, the Minister must issue the applicant a feed-in tariff approval subject to any terms and conditions that the Minister determines are appropriate.

Minister's approval required to transfer feed-in tariff approval

29 A feed-in tariff approval must not be transferred without the prior written approval of the Minister.

Approved applicant must continue to meet requirements

30 An applicant that has been issued a feed-in tariff approval must continue to meet the applicable requirements of these regulations and must diligently pursue the construction and completion of the applicant's project.

Interconnection queue

31 At the request of an applicant that has been issued a feed-in tariff approval, the relevant public utility must place the applicant's generation facility in the next available place in the queue for interconnection with the electrical grid.

Standard power purchase agreement for feed-in tariff program

32 (1) The Minister, in consultation with the relevant public utility, must prepare a standard form of power purchase agreement to be used for the feed-in tariff program and must have the form of power purchase agreement approved by the Board.

(2) When a feed-in tariff approval is issued, the applicant and the relevant public utility are deemed to have entered into a power purchase agreement in the form provided for in subsection (1) effective from the date public utility places the applicant in the interconnection queue as required by Section 31.

(3) The intended parties to a power purchase agreement may agree to changes to the standard power purchase agreement provided for in subsection (1) and, if so, the form of power purchase agreement as agreed to by the parties must be provided to the Minister.

Minister's consent required to assign power purchase agreement

33 A power purchase agreement entered into under the feed-in tariff program must not be assigned without the prior written consent of the Minister.

Generator under feed-in tariff program must report to Minister

34 Within 30 days of the interconnection of a renewable low-impact electricity generation facility with the electrical grid under the feed-in tariff program, the renewable low-impact electricity generator that owns or operates the facility must provide a report to the Minister that details all of the following:

- (a) the total capital costs for the project;
- (b) for each project expenditure for goods or services in the amount of \$50 000 or greater, the name and address of the supplier or contractor providing the goods or services.

"One-window" committee for feed-in tariff program

35 (1) The Ministers of each of the following departments must each designate 1 or more representatives to serve on a "one-window" committee under the direction of the Minister of Energy:

- (a) Agriculture;
- (b) Energy;
- (c) Environment;
- (d) Fisheries and Aquaculture;
- (e) Natural Resources;

- (f) Service Nova Scotia and Municipal Relations;
- (g) Economic and Rural Development and Tourism
- (h) Transportation and Infrastructure Renewal.

(2) The "one-window" committee must coordinate the providing of timely advice to applicants under the feed-in tariff program about permits or approvals necessary from the respective departments for applicants' projects, and the estimated time for the processing of permits and approvals.

Procurement of Renewable Low-Impact Electricity Under Section 4B of the Act

Responsibility of renewable electricity administrator

35A It shall be the responsibility of the renewable electricity administrator to ensure that a procurement under Section 4B of the Act is fair, transparent and competitive, and subject to subsection 32(3) that the agreement executed by the bidder with the public utility is consistent with the request for proposals.

Requests for proposals

35B A request for proposals under Section 4B of the Act must provide that the primary basis for evaluating bids is the degree to which the proposal provides the best value for electricity ratepayers.

35C A request for proposals under Section 4B of the Act must require that a bidder

- (a) describe in its submission how the proposed project will comply with the requirements of these regulations;
- (b) provide in its submission the basis upon which the proposed project will be economically viable;
- (c) demonstrate that it has the technical capacity necessary to undertake and complete the proposed project;
- (d) provide the anticipated in-service date for the renewable low-impact electricity generation facility;
- (e) state any prior experience it has with renewable electricity projects.

Bid evaluation

35D In evaluating proposals submitted to it the renewable electricity administrator will

- (a) evaluate proposals in a timely fashion;
- (b) respond to any concerns or questions from bidders in a timely manner;
- (c) inform all bidders and the public utility in writing within seven days of selecting the successful bidder by written decision transmitted in a manner consistent with the manner in which notice may be provided under the request for proposals.

Report

35E For each procurement, the renewable electricity administrator must provide a final report in writing to the Minister within 60 days of the notification provided for in clause 35D(c), that

- (a) summarizes the request for proposal process;
- (b) details the steps the renewable electricity administrator took to ensure a fair, transparent and competitive process;
- (c) includes a comparative economic analysis of the bids received;
- (d) details the other relevant considerations that support the renewable electricity administrator's selection of the successful bidder.

Requirement for request for proposals

36 If a request for proposals under Section 4B of the Act includes a request for a primary forest biomass renewable low-impact electricity generation facility, the request for proposals must require that a proponent provide a biomass fuel procurement plan that outlines how the proponent intends to ensure that its fuel supply will meet sustainable harvesting requirements.

Standard power purchase agreement for procurement

37 (1) The renewable electricity administrator must, in consultation with the relevant public utility, prepare a standard form power purchase agreement to be used for procuring renewable low-impact electricity under Section 4B of the Act and must have the form of power purchase agreement approved by the Board before any procurement.

(2) The intended parties to a power purchase agreement may agree to changes to the standard power purchase agreement provided for in subsection (1) and, if so, the form of power purchase agreement as agreed to by the parties must be provided to the Minister.

Records, Audits and Reporting

Renewable electricity standards progress reports

38 (1) Each load-serving entity must report to the Minister annually, or at other intervals determined by the Minister, to outline its progress in meeting the requirements of the renewable electricity standards.

(2) The Minister may specify the form and content of the progress reports.

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

Books and records of renewable low-impact electricity generators

39 Every renewable low-impact electricity generator must keep or cause to be kept appropriate books, records, accounts, documents and other information related to the ownership and operation of its renewable low-impact electricity generation facility and its membership or ownership at an office in the Province.

Audit or examination of renewable low-impact electricity generator

40 The Minister may at any time audit or examine the books and records of a renewable low-impact electricity generator to ensure the continued compliance by the renewable electricity generator with the Act and these regulations.

Duty of renewable low-impact electricity generator

41 For the purpose of an audit or examination under Section 40, a renewable low-impact electricity generator must do all of the following:

(a) make its books, records, accounts, documents and other information available at all reasonable times to any person authorized by the Minister for the purpose, and provide the person with copies of documents requested by the person that are reasonable for the purposes of the audit or examination;

(b) make copies of any operating agreement or other agreements between the renewable low-impact electricity generator and any other person in relation to the operation or ownership of its renewable low-impact electricity generation facility available at all reasonable times to any person authorized by the Minister for the purpose;

(c) at any time, on any notice and under any supervision by or on behalf of the renewable low-impact electricity generator as is reasonable in the circumstances,

(i) give all reasonable assistance to a person authorized by the Minister to carry out the audit or examination,

(ii) provide access to all relevant sites, and

(iii) answer orally or in writing all questions relating to the audit or examination.

Report by independent power producer

42 If any event occurs, whether by operation of law or otherwise, that causes an independent power producer to fail to comply with the requirements for an independent power producer under these regulations, the independent power producer must immediately notify the Minister in writing of the event and provide any information that the Minister requires.

Enforcement

Minister's powers

43 (1) The Minister has all the power and authority necessary to implement, administer and enforce these regulations, including the power to issue directions or orders, and must do all of the following:

(a) establish a process for approving and auditing renewable low-impact electricity generation facilities and renewable low-impact electricity generators for compliance with these regulations;

(b) establish a process for approving and re-approving renewable low-impact electricity generation facilities and renewable low-impact electricity generators;

(c) establish accounts and records for a renewable low-impact electricity generator or its representative;

(d) establish registries of renewable low-impact electricity generation facilities and information that the Minister determines to be necessary.

(2) In addition to the powers and duties set out in subsection (1), the Minister may do any of the following:

(a) audit approved renewable low-impact electricity generation facilities as necessary to verify compliance with the Act and regulations;

(b) suspend or revoke an approval issued under these regulations;

(c) take any action that the Minister considers necessary to ensure that the requirements of these regulations are met;

(d) extend the time within which a condition of an approval issued under these regulations must be met;

(e) prepare interpretations of these regulations, or policies, standards and guidelines under these regulations.

(3) The Minister may authorize a representative of the Department of Energy to exercise the Minister's powers and authority, and to undertake the Minister's responsibilities under these regulations.

(4) The Minister may direct the Board to inquire into and report on any matter under the Act or these regulations if the Minister considers it necessary or advisable in order to effectively carry out the intent and purpose of the Act.

Order to comply

44 (1) If the Minister believes on reasonable grounds that a person has contravened or will contravene any part of the Act or these regulations, the Minister may issue an order requiring the person to cease a specified activity or to take any action that the Minister directs.

(2) An order remains in effect until it is revoked, in writing, by the Minister.

(3) A copy of an order must be served on the person to whom it is directed.

Compliance with order

45 (1) If an order issued under Section 44 is served on a person to whom it is directed, that person must comply with the order without delay or, if a period for compliance is specified in the order, within the time period specified.

(2) Any order issued because of the failure of a cooperative, a not-for-profit body corporate or a community economic-development corporation to continue to meet the ownership requirements in clause 20(2)(c), (d) or (e), as the case may be, must allow a reasonable period of time for the person to whom the order is directed to comply with the order.

Failure to comply

46 (1) If a person to whom an order under Section 44 is directed does not comply with the order or a part of the order, the Minister may take whatever action the Minister considers necessary to carry out the terms of the order or, in the case of a renewable low-impact electricity

generator participating in the feed-in tariff program, may cancel or suspend a power purchase agreement to which the generator is party.

(2) Any power purchase agreement entered into or deemed to have been entered into under the feed-in tariff program is subject to suspension or cancellation by the Minister as provided in subsection (1).

Penalties and enforcement respecting renewable electricity standard

47 (1) A person who does any of the following is liable to a daily penalty of no more than \$500 000 to a maximum aggregate of \$10 000 000 per occurrence:

- (a) fails to comply with the requirements of Section 4, 5, 6 or 6A;
- (b) fails, neglects, omits or otherwise refuses to do any act or thing required in respect of Section 4, 5, 6 or 6A;
- (c) fails, neglects, omits or otherwise refuses to comply with a direction or order of the Minister to comply with Section 4, 5, 6 or 6A.

(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.

(3) No public utility may recover any penalty imposed on it under this Section through its rates.

Appeals

Appeals to the Board

48 (1) A person directly affected by an order or decision of the Minister made under these regulations may, by written notice to the Board, appeal to the Board no later than 60 days after the later of

- (a) the date of the order or decision; and
- (b) the date that the reasons for the order or decision are issued.

(2) If an appeal is taken under this Section, the Board may, by order, confirm the decision under appeal or make any other decision that the Board considers proper.

(3) The Minister is entitled to be heard by counsel or otherwise on the argument of an appeal under this Section.

Board powers

49 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 hearings and appeals under the Act and these regulations.

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