

# Nova Scotia Renewable Electricity Administrator

## *Terms of Reference*

NS Department of Energy Final Draft

### **1.0 Introduction**

#### **1.1 Overview**

The Renewable Electricity Plan released in April 2010 outlines the detailed program which Nova Scotia will follow to reach the legislated requirement of 25 percent renewable electricity generation by 2015, as well as the further goal of 40 percent by 2020. The majority of the new renewable electricity generation required to meet the 2015 RES target will come from medium to large-scale projects to be developed in equal parts by Nova Scotia Power (NSPI) and Independent Power Producers (IPPs). To promote fairness, transparency, and efficiency, IPP projects will be secured through a competitive process under the management of an independent entity.

In May 2010, Bill no. 64 was passed by the Government of Nova Scotia, amending the *Electricity Act* of 2004. Section 4B of this legislation allows Government to appoint an entity or person to act as a renewable electricity administrator (REA) to conduct the procurement of renewable low-impact electricity from independent power producers. The REA will be responsible to administer the competitive bid process for a minimum of 300 GWh of new non-NSPI renewable electricity to reach the 2015 target. The REA will evaluate and select successful IPP projects in a fair, transparent and competitive manner.

#### **1.2 Background**

Currently, more than 80 percent of electricity in Nova Scotia is produced by burning fossil fuels - primarily coal. The majority of this coal is sourced from the world market. Demand for coal is on the rise in Asia, putting significant pressure on prices. Therefore, with such a reliance on a single energy source, Nova Scotia is exposed to significant risks associated with the volatile and increasing price of fossil fuels.

Along with increasing energy prices, there are increasingly more rigorous environmental standards that impose more expensive environmental mitigation costs that arise from our continued heavy reliance on high carbon fossil fuels for electricity generation. Air pollutants such as mercury, sulphur dioxide, nitrogen oxides and greenhouse gases which have all been implicated in causing negative impacts on our environment, are subject to more stringent federal and provincial regulations.

In 2007, the Government of Nova Scotia adopted the Environmental Goals and Sustainable Prosperity Act (EGSPA) which, among other initiatives, committed to reducing air pollutant emissions by set levels. EGSPA also committed that 18.5 percent of the total electricity needs of the province will be obtained from renewable energy sources by 2013. The 2007 Renewable Energy Standard Regulations further defined our renewable electricity targets and requirements.

In early 2009, Nova Scotia introduced hard caps on the greenhouse gas (GHG) emissions in the electricity sector that require a total reduction of about 2.5 million tonnes of GHGs by 2020.

The Renewable Electricity Plan builds on this earlier leadership, and sets further goals for the electricity sector in Nova Scotia. Recognizing that further renewable electricity development is critical to help lessen the impact on the province from rising energy costs, increase energy security, meet our existing/future environmental targets and further develop a new, 'green' economy in Nova Scotia, government advanced the renewable electricity requirements – committing by law to reach 25 percent renewable electricity generation by 2015. The Plan also defined a new goal - 40 percent by 2020.

The Plan and regulations outline a number of programs to ensure we meet our goals: a new community-based feed-in tariff, an enhanced net metering program for individuals, and continued medium and large-scale development by both Nova Scotia Power (NSPI) and Independent Power Producers (IPP). The RES Regulations require NSPI to acquire an incremental 300 GWh per year of low impact renewable electricity generation from IPPs as an integral part of the plan to meet the 2015 RES requirement.

Requests for Proposals (RFP) have been developed by NSPI when there was a recognized need for new renewable electricity generation from Independent Power Producers. In the future, NSPI will identify the need as operator of the electricity system and the Renewable Electricity Administrator will manage the process under which prospective IPPs compete for projects under the IPP allocation.

In May 2010, the Government of Nova Scotia amended the *Electricity Act* to reflect the goals and programs outlined in the Renewable Electricity Plan. The role and responsibilities of the Renewable Electricity Administrator are outlined in Section 4B of the Act, and within the *Renewable Electricity Regulations*.

## **2.0 Renewable Electricity Administrator**

The Renewable Electricity Administrator (REA) will be appointed by the Governor in Council under section 4B, subsection (1) of the 2010 amendments to the *Electricity Act*. The REA may be a person or entity that is qualified to carry out the functions and responsibilities under the Act. The REA is responsible for administering the competitive bid process for a minimum of 300 GWh of renewable electricity to reach the 2015 renewable electricity target. The REA will develop an appropriate Request for Proposals which fits the needs of the Province and the requirements of the public utility. RFPs may be varied on project size and technology, as fits the needs of the initiator. The request for Proposals will be developed in the context of the standard Power Purchase Agreement developed by NSPI.

The REA will be responsible for this function for the term and subject to such conditions as determined by the Governor in Council.

Once all bids have been received for IPP projects, the REA will evaluate and choose the successful projects as defined under sections 2.3 and 2.4 of this document. The process is to proceed in a transparent and timely fashion.

## 2.1 Experience and Qualifications

The REA entity or person must:

- I. Be familiar with Nova Scotia's existing legislation and regulations regarding the electricity market, including the *Electricity Act* and the 2010 amendments regarding renewable electricity in *Bill no. 64*, as well as the 2010 *Renewable Electricity Regulations*.
- II. Be familiar with Nova Scotia's current electricity market place and existing electricity regulatory environment as well as the 2009 *Electricity Market Governance Committee Report*.
- III. Be thoroughly familiar with the Request for Proposals process and the template RFP used for procurement by the Government of Nova Scotia.
- IV. Have a working knowledge of Power Purchase Agreements and specific understanding of the NSPI standard Power Purchase Agreement for renewable Energy.
- V. Have strong technical understanding to evaluate different renewable electricity projects and technologies including, but not limited to: wind, biomass and tidal generation.
- VI. Have strong understanding of project economics, including system impacts, interconnection costs and have the ability to evaluate the economic merits of a proposal as required to choose a successful bid(s).
- VII. Have sufficient resources to develop an appropriate RFP, evaluate bids, and respond to all questions and concerns in a timely manner.
- VIII. Existing and/or willing to become a registered Nova Scotia business with the demonstrated ability to assume any and all legal liabilities that may arise from the execution of these duties.

## 2.2 Duties and Responsibilities

The REA is responsible to conduct the RFP process in a fair and transparent manner. When there is a recognized need for more renewable electricity projects, the REA, upon request by the Governor in Council or NSPI, will develop an appropriate Request for Proposals, advertise the opportunity, and consider all bids which meet the criteria of the RFP.

The REA will then evaluate the proposals and select successful projects using the evaluation criteria as outlined in this document, to meet the requirements for renewable electricity. The

REA will inform all bidders the results of the process through written correspondence within one week of the decision.

The REA will work with Nova Scotia Power to develop a standard form of Power Purchase Agreement (PPA) for successful renewable electricity projects from this process. The form of PPA must be approved by the Board through their stakeholder consultation process.

The REA will act as a conduit between renewable electricity developers, NSPI and government to answer all information requests and ensure that all developers receive written uniform information from any questions that are posed by a respondent. The REA must be able to discern confidential information from public information, as it is not the intent to release confidential information to all parties.

### 2.3 Procurement process

The procurement process for new renewable electricity from independent power producers under the REA will follow the process outlined below:

- I. Where a public utility intends or is required 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 the Governor in Council directs a procurement of the same, the Governor in Council will request the REA to issue a call for bids. The call for bids may vary in terms of project size, location or technology type.
- II. The REA will prepare an appropriate Request for Proposals based upon the requirements of the procurement
- III. The REA will advertise the RFP as appropriate and accept bids for qualifying renewable electricity projects.
- IV. The REA will evaluate the bids in a timely fashion, selecting the successful project(s) using the evaluation criteria as defined in Section 2.4.
- V. Once a decision has been made, the REA will inform all bidders, and the public utility through written correspondence.
- VI. Within 30 days after the receipt of the written decision, the public utility may appeal the decision to the Board for errors of law, jurisdictional errors or breaches of natural justice.
- VII. Where the REA has selected one or more IPPs 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.
- VIII. The intended parties to a PPA may agree to changes to the standard power purchase agreement provided for in subsection (1) of Section 4B of the Act and, if

so, the form of PPA as agreed to by the parties must be provided to the Minister of Energy.

- IX. The REA will further confirm that the successful proposal(s) and the execution of all necessary agreements and documents with the public utility are consistent with the initial submission(s) and are consistent with the RFP process.
- X. The REA will respond to any concerns or questions from proponents in a timely fashion.

#### 2.4 Evaluation criteria

Projects will be evaluated by the following criteria, in order of importance:

- I. The project must meet the criteria stated in the *Renewable Electricity Regulations* and other criteria as outlined in the RFP as developed by the REA (size, location technology type, etc.)
- II. Economic viability of the project
- III. Technical capacity of the proponent
- IV. The anticipated in-service date
- V. Prior renewable electricity projects by proponent
- VI. All proposals utilizing forest biomass must include an appropriate biomass fuel procurement plan to ensure compliance with all existing regulations

#### 2.5 Deliverables

In addition to overseeing the competitive bid process, the REA is responsible to:

- I. Work with NSPI, stakeholders and the Board to develop a standard form Power Purchase Agreement to be used for successful projects from the RFP process.
- II. Develop appropriate RFP documents based on the RFP template as provided by the Province of Nova Scotia.
- III. Submit a written final report following the completion of each RFP process to the Nova Scotia Department of Energy that provides commentary on the fairness, transparency and competitiveness of the RFP, and comparative economic analysis supporting the selection and recommendation of the successful bids

#### 2.6 Fees and Expenses

The fees and expenses incurred by the REA will be fixed by the Nova Scotia Utility and Review Board, and will be paid to the REA by the Board in such amount as determined by the Board. These fees and expenses may include, but are not limited to, the cost of retaining experts and legal counsel to provide the renewable electricity administrator with advice on technical and legal matters.

The Board may recover these costs from public utilities in the same manner it recovers its other expenses under Section 15 of the *Public Utilities Act*.

## 2.7 Availability

The REA is expected to be available to begin the RFP process within two weeks of a written request from Government.

The REA is further expected to be available to respond to questions, concerns or comments from stakeholders in timely fashion, as is appropriate for the issue.

The REA will also be expected to be available to meet with the Government of Nova Scotia, Nova Scotia Power, or the Board as required to fulfill the obligations of the position.

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