

# Electricity Act

## CHAPTER 25 OF THE ACTS OF 2004

*as amended by*

2010, c. 14; 2011, c. 15; 2013, c. 34; 2015, c. 31, ss. 22-28;  
2022, c. 12; 2023, cc. 6, 17; 2024, c. 2, ss. 15, 16, 18-21



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2022, c. 12; 2023, cc. 6, 17; 2024, c. 2, ss. 15, 16, 18-21

## An Act Respecting Electricity

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### 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 Energy Board;

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(aa) “energy storage” means any technology or process that is capable of storing energy from the electricity grid for the purpose of returning part or all of that energy to the grid at a later time or to provide ancillary services;

(aaa) *unproclaimed 2022, c. 44, s. 1.*

(aaaa) “IESO” means the Nova Scotia Independent Energy System Operator established under the *More Access to Energy Act*;

(aaaaa) “IESO-controlled grid” has the same meaning as in the *More Access to Energy Act*;

(aaaab) “market participant” has the same meaning as in the *More Access to Energy Act*;

(aaaac) “Minister” means the Minister of ~~Natural Resources and Renewables~~ [Energy];

(aaab) “municipal utility” means the Board of Commissioners of the Berwick Electric Commission, The Electric Light Commissioners for Riverport, in the County of Lunenburg or an electric utility of the Municipality of the District of Guysborough, the Town of Antigonish, the Town of Lunenburg or the Town of Mahone Bay;

(aab) “plant or equipment” has the same meaning as in the *Public Utilities Act*;

(aac) *repealed 2023, c. 6, s. 1.*

(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*, but does not include a retail supplier;

(b) “retail customer” means a person who uses, for the person’s own consumption in the Province, electricity that the person did not generate;

(c) “retail supplier” means a person who is authorized to sell renewable low-impact electricity in accordance with this Act and the regulations, but does not include a wholesale customer;

(d) “wholesale customer” means Nova Scotia Power Incorporated or a municipal utility.

**(2)** Commencing on such date as prescribed in the regulations, “renewable electricity” includes hydroelectricity whether generated in or imported into the Province.

**(3)** For greater certainty, the presence of generators or energy storage devices on customer premises does not constitute a “substantially different circumstance” for the purpose of Section 67 of the *Public Utilities Act*. 2004, c. 25, s. 2; 2010, c. 14, s. 1; 2011, c. 15, s. 1; 2013, c. 34, s. 2; 2015, c. 31, s. 22; 2022, c. 12, s. 1; 2023, c. 6, s. 1; 2024, c. 2, s. 15.

### 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.

**Board review of interconnections process**

**2C (1)** The Board shall conduct a review of Nova Scotia Power Incorporated's interconnections process to ensure the best value for ratepayers and consistency and predictability for generators.

**(2)** The Board shall undertake the review pursuant to subsection (1) as soon as is reasonably possible and shall make the results of the review public.

**(3)** Notwithstanding subsections (1) and (2), the IESO shall maintain and administer standards and processes to govern interconnections to the IESO-controlled grid. 2022, c. 12, s. 2; 2024, c. 2, s. 16.

**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)** In this Section, "customer" means all metered accounts registered to the same person or entity under the same rate code in a distribution zone.

**(2)** A public utility may develop and maintain a program that permits 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.

**(3)** Notwithstanding subsection (2), Nova Scotia Power Incorporated shall develop and maintain a program that permits a customer to generate electricity for the customer's own use and to sell electricity to Nova Scotia Power

Incorporated at a rate equivalent to the rate paid by the customer for electricity supplied to the customer by Nova Scotia Power Incorporated.

- (4) A program developed under subsection (3) only applies
- (a) to a customer who wishes to install a generator with a nameplate capacity of more than twenty-seven kilowatts;
  - (b) if the generator and the customer's load are not connected to the same meter; or
  - (c) to other customer classes as prescribed by the regulations.

(5) Only electricity generated by a customer that is renewable low-impact electricity qualifies for the program referred to in subsection (3).

(6) Nova Scotia Power Incorporated may not compensate a customer for electricity generated in excess of that customer's consumption in a calendar year.

(7) A program developed and maintained pursuant to subsection (2) or (3) must receive the approval of the Board before it is implemented by the public utility.

(8) The public utility shall collect the data as prescribed by the regulations and provide the Minister with information derived from the data at such times and in such form as the Minister may determine.

(9) The Governor in Council may make regulations respecting any aspect of a program developed or maintained under subsection (2) or (3) including

- (a) program requirements and conditions, including customer classes;
- (b) participant eligibility requirements;
- (c) the application process;
- (d) duties of the public utility with respect to the program;
- (e) project limitations, including limitations with respect to generator nameplate capacities;
- (f) the identification of and conditions respecting equipment to be used to
  - (i) measure the amount of electricity produced by a generator and the time it is supplied,
  - (ii) measure the amount of electricity supplied to the customer by the public utility and the time it is supplied, and
  - (iii) measure the amount of electricity supplied to the public utility by the customer's generator and the time it is supplied;
- (g) standards that must be adhered to;
- (h) enforcement measures and mechanisms;

- (i) costs, fees and penalties;
- (j) obligations relating to data collection, reporting and the sharing of information;
- (k) the sale of renewable low-impact electricity to the public utility;
- (l) oversight of the program by the Board;
- (m) requirements or conditions with respect to any agreement between a customer and the public utility;
- (n) any other matter the Governor in Council considers necessary or advisable for the proper administration of the program.

(10) The exercise by the Governor in Council of the authority contained in subsection (9) is a regulation within the meaning of the *Regulations Act*. 2022, c. 12, s. 3.

#### **Customer may generate and sell electricity**

**3AA (1)** A Nova Scotia Power Incorporated customer may, as of right, with no requirement to participate in a Nova Scotia Power Incorporated program, install a renewable low-impact generator or energy storage device with a total nameplate capacity of twenty-seven kilowatts or less.

(2) A customer who generates the customer's own electricity shall ensure the equipment meets the standards prescribed by the regulations.

(3) Subject to subsection (4), Nova Scotia Power Incorporated shall purchase excess electricity from a customer who has installed a renewable low-impact generator or energy storage device with a nameplate capacity of twenty-seven kilowatts or less to generate electricity for the customer's own use.

(4) Nova Scotia Power Incorporated shall purchase electricity under subsection (3) up to a maximum of the customer's total usage per calendar year at a rate equivalent to the rate paid by the customer, but is not required to compensate a customer for electricity generated by the customer in excess of the customer's total consumption in a calendar year.

(5) Nova Scotia Power Incorporated shall develop standard terms and conditions for all customers, including customers who generate their own electricity.

(6) Customers who generate their own electricity are not required to enter into a contractual agreement with Nova Scotia Power Incorporated for the sale of their generated electricity if the nameplate capacity of the customer's generator is twenty-seven kilowatts or less.

(7) Nova Scotia Power Incorporated shall transition all existing net-metering customers who were issued contracts for the purchase of their generated electricity to the program referred to in subsection (3), but shall continue to abide by the terms of those contracts, including payment for excess energy generated by the customer, until those contracts are terminated pursuant to subsection (8).

(8) A contract between Nova Scotia Power Incorporated and a net-metering customer in effect as of the date this Section comes into force may be terminated when

- (a) the customer's electrical service is disconnected;
- (b) the customer has not generated any electricity for a period of twelve calendar months; or
- (c) the customer's generating facility is not in compliance with the terms of the contract. 2022, c. 12, s. 4.

#### **Advanced metering infrastructure program**

**3AB (1)** Unless a customer has opted out of Nova Scotia Power Incorporated's advanced metering infrastructure program, Nova Scotia Power Incorporated shall ensure all customer meters are updated, and have the capacity to measure the electricity generated by a customer, on or before July 1, 2022, unless granted an extension by the Board.

(2) Nova Scotia Power Incorporated shall read customer meters and bill customers, and perform such other duties as may be prescribed by the regulations. 2022, c. 12, s. 4.

#### **Fee structure requirement**

**3AC** A public utility may not create a fee structure, nor impose system access charges, that discourage customers from developing, installing and using their own renewable low-impact energy generators or energy storage devices. 2022, c. 12, s. 4.

#### **Regulations**

**3AD (1)** The Governor in Council may make regulations

- (a) prescribing the duties of a public utility respecting net-metering;
- (b) setting standards for equipment used by customers to generate their own electricity.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2022, c. 12, s. 4.

#### **Interpretation of Sections 3AF to 3AK**

**3AE** In Sections 3AF to ~~3AL~~[3AK],

- (a) "community solar garden" means a facility that generates energy by means of a ground-mounted or roof-mounted solar photovoltaic device for the use of subscribers who receive a bill credit for the electricity generated in proportion to the size of their subscription;
- (b) "community solar program" means a program established under Section 3AF that permits a customer, group of customers or third party to generate solar energy
  - (i) for the customer's, group's or third party's use, and



- (ii) where there is an excess electricity generated, to sell the excess to Nova Scotia Power Incorporated at a rate prescribed by the regulations;
- (c) “project owner” means the eligible entity or group of entities that own and operate a community solar garden and are responsible for enlisting subscribers;
- (d) “subscriber” means an eligible retail customer of Nova Scotia Power Incorporated who owns one or more subscriptions of a community solar garden interconnected with that public utility;
- (e) “subscription” means a contract between a subscriber and a project owner. 2022, c. 12, s. 5.

### **Community solar program**

**3AF (1)** The Minister shall develop and maintain a community solar program that permits any Nova Scotia Power Incorporated customer, group of customers or third party to generate solar energy for the customer’s, group’s or third party’s use and to sell any excess electricity to Nova Scotia Power Incorporated in accordance with the conditions and requirements and at the rate prescribed by the regulations.

**(2)** Upon receipt of an application under the community solar program, the Minister shall approve or deny the application within the time and in the manner prescribed by the regulations.

**(3)** Where the Minister approves an application under the community solar program, the Minister shall determine the rate at which the public utility must purchase the electricity from the project owners.

**(4)** The Minister shall develop a power purchase agreement, in accordance with the requirements prescribed by the regulations, and file it with the Board for review and approval.

**(5)** The Minister may issue a power purchase agreement to an approved project owner and Nova Scotia Power Incorporated is bound by the terms of the agreement. 2022, c. 12, s. 5.

### **Subscription agreement**

**3AG (1)** A project owner and a subscriber must enter into a subscription agreement.

**(2)** Neither Nova Scotia Power Incorporated nor a municipal electric utility may be a subscriber or project owner. 2022, c. 12, s. 5.

### **Offset of subscriber’s electricity demand**

**3AH** When a community solar garden commences commercial operation, Nova Scotia Power Incorporated shall update its billing system such that the electricity produced by the community solar garden offsets the subscribers’ electricity demand and any renewable energy certificates are managed in accordance with the regulations. 2022, c. 12, s. 5.

**Fees and billing**

**3AI (1)** Nova Scotia Power Incorporated shall develop a system for collecting fees payable by subscribers and make it available for use by project owners and perform such other related duties as may be prescribed by the regulations.

**(2)** The project owner shall share the following subscriber data with Nova Scotia Power Incorporated for the purpose of billing:

- (a) name, address and account number;
- (b) the quantity of energy subscribed; and
- (c) such other data as prescribed by the regulations. 2022, c. 12, s. 5.

**Hosting capacity analysis**

**3AJ** Nova Scotia Power Incorporated shall perform hosting capacity analysis of each of its substations and feeders and shall make this information public to the extent possible. 2022, c. 12, s. 5.

**Regulations**

**3AK (1)** The Governor in Council may make regulations respecting any aspect of the community solar program developed or maintained under Sections 3AF to 3AJ including

- (a) establishing a community solar program cap and eligibility requirements for project owners;
- (b) program requirements and conditions;
- (c) project limitations, including establishing the maximum generator nameplate capacity for community solar gardens;
- (d) establishing an application window and application requirements, review dates and processes for project owners;
- (e) project owner and subscriber eligibility requirements;
- (f) requirements and conditions with respect to an agreement between a project owner and subscriber;
- (g) prescribing the form and content of a subscription agreement, including how fees are charged and calculated;
- (h) prescribing additional terms and conditions that may apply upon the issuance of a subscription agreement;
- (i) prescribing the form and content of and terms and conditions required in a power purchase agreement, including how fees are charged and calculated;
- (j) the sale of excess electricity from solar energy to Nova Scotia Power Incorporated, including setting a rate;
- (k) obligations relating to data collection, reporting and the sharing of information;
- (l) duties of the public utility with respect to the program;
- (m) the transfer of renewable energy certificates from Nova Scotia Power Incorporated to a subscriber or project owner;

- (n) costs and fees;
- (o) setting a date for a review of the community solar program;
- (p) prescribing anything that is to be prescribed pursuant to Sections 3AF to 3AJ;
- (q) any other matter the Governor in Council considers necessary or advisable for the proper administration of the program.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2022, c. 12, s. 5.

#### **Application of Public Utilities Act to retail suppliers**

**3B** Notwithstanding the *Public Utilities Act*,

- (a) a retail supplier is not a public utility to which the *Public Utilities Act* applies unless the retail supplier is deemed to be a public utility by the regulations; and
- (b) the *Public Utilities Act* applies to a retail supplier who is deemed to be a public utility by the regulations, subject to any restrictions prescribed by the regulations. 2013, c. 34, s. 3.

#### **Retail customers and renewable low-impact electricity**

**3C (1)** Effective on the date prescribed in the regulations,

- (a) a retail supplier who meets the requirements in Section 3D may sell to a retail customer; and
- (b) a retail customer, other than a customer of a municipal utility, may purchase from such a retail supplier,

renewable low-impact electricity generated within the Province.

(1A) In any sale pursuant to subsection (1), the retail supplier shall transfer or assign all emission credits or allowances arising from the use of renewable energy sources to the retail customer.

(2) Nova Scotia Power Incorporated shall not refuse to provide service to a retail customer on the basis that the customer purchases renewable low-impact electricity from a retail supplier.

(3) The Board has all the power and authority necessary to implement this Section. 2013, c. 34, s. 3; 2015, c. 31, s. 24.

#### **Authority to act as retail supplier**

**3D (1)** No person shall act or purport to act as a retail supplier unless the person has been issued a retail supplier licence pursuant to Section 3E.

- (2) Subsection (1) does not apply to a person who is
  - (a) deemed to be a public utility by the regulations; or
  - (b) a member of a class or category of retail suppliers prescribed by the regulations. 2013, c. 34, s. 3.

**Retail supplier licence**

**3E (1)** A person may apply for a retail supplier licence in the form and manner prescribed by the regulations.

**(2)** Subject to any qualifications prescribed by the regulations, the Board may issue a retail supplier licence to an applicant, subject to any terms and conditions the Board considers appropriate and any terms and conditions prescribed by the regulations.

**(3)** The holder of a retail supplier licence may apply to amend the licence in the form and manner prescribed by the regulations.

**(4)** Where an application is made pursuant to subsection (3), the Board may

(a) amend the retail supplier licence, subject to any terms and conditions the Board considers appropriate and any terms and conditions prescribed by the regulations;

(b) cancel the retail supplier licence and grant a new retail supplier licence, subject to any terms and conditions the Board considers appropriate and any terms and conditions prescribed by the regulations; or

(c) deny the application.

**(5)** The Board may, in its discretion, and shall, if prescribed by the regulations, amend, suspend, reinstate or cancel a retail supplier licence. 2013, c. 34, s. 3.

**Limits on transfer or assignment of licence**

**3F** No person shall transfer or assign a retail supplier licence unless the Board, in its discretion, permits the person to do so or the transfer or assignment is permitted by the regulations. 2013, c. 34, s. 3.

**Nova Scotia Power Incorporated obligations**

**3G (1)** Notwithstanding Section 77 of the *Public Utilities Act*, on or before the applicable date prescribed by the regulations, Nova Scotia Power Incorporated, or the IESO in relation to matters falling under its scope of authority pursuant to the *More Access to Energy Act*, shall develop in consultation with stakeholders, and file with the Board for approval, any tariffs, procedures and standards of conduct and any amendments to existing tariffs, procedures and standards of conduct that are necessary to facilitate the purchase of renewable low-impact electricity as provided for in Section 3C, including

- (a) a new or amended open access transmission tariff;
- (b) a distribution tariff;
- (c) a new or amended backup/top-up service tariff;
- (d) a new or amended non-dispatchable supplier spill tariff;
- (e) new or amended interconnection procedures;
- (f) new or amended market rules; and

(g) any other tariffs, procedures or standards of conduct prescribed by the regulations or that the Board requires Nova Scotia Power Incorporated to develop or amend in order to facilitate the purchase of renewable low-impact electricity as provided for in Section 3C.

(2) In reviewing and approving the tariffs, procedures and standards of conduct required to be developed or amended pursuant to this Section, the Board shall be guided by the following principles:

(a) customers of Nova Scotia Power Incorporated and persons who, at the coming into force of this Section, are independent power producers or hold feed-in tariff approvals within the meaning of the regulations are not to be negatively affected if some retail customers choose to purchase renewable low-impact electricity from a retail supplier;

(b) retail suppliers and their customers are to be responsible for all costs related to the provision of service by retail suppliers to their customers that would otherwise be the responsibility of Nova Scotia Power Incorporated and its customers. 2013, c. 34, s. 3; 2024 c. 2, s. 18.

#### **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.

(9) A generator that qualifies under this Section, pursuant to the regulations relating to community feed-in tariffs, shall interconnect with the electrical grid of a public utility at the distribution level and, for greater certainty, the interconnection of the generator must not, before any mitigation measures are taken into account except for a reduction in the size of the generator, be anticipated to adversely impact the public utility's transmission system.

(10) Subject to subsection (11), subsection (9) applies to all community feed-in tariff approvals issued by the Minister before or after the coming into force of subsection (9) and, notwithstanding any enactment or other law, no claim for compensation lies against His Majesty in right of the Province in respect of the application of this subsection.

(11) Notwithstanding subsection (9), the Minister may permit a generator to interconnect a small-scale in-stream tidal-generation facility under this Section if the Minister is satisfied that anticipated adverse impacts to the public utility's transmission system can be mitigated through any means at the cost of the generator.

(12) No generator may qualify under this Section if an application to qualify was not received by the Minister before August 6, 2015.

(13) Subsection (12) does not apply to a generator who was issued a feed-in tariff approval before August 6, 2015, and whose approval was set aside by a decision following an appeal or judicial review if, where necessary, a new application to qualify is received by the Minister within six months of the date that all appeal rights from such a decision have been exhausted or abandoned.

(14) Notwithstanding the terms or conditions of any community feed-in tariff approval given to a generator by the Minister pursuant to this Section and the regulations before or after the coming into force of this subsection, the approval expires if the generator is not constructed and ready for electrification within

(a) three years from the date of issuance of a community feed-in tariff approval for wind-power generation facilities;

(b) four years from the date of issuance of a community feed-in tariff approval for biomass and run-of-river hydro-generation facilities; and

(c) five years from the date of issuance of a community feed-in tariff approval for in-stream tidal-generation facilities.

(15) Notwithstanding subsection (14), where the Minister provided the generator with an extension to the term of the approval before the coming into force of subsection (14) that provided for a longer period than that provided by subsection (14), the approval expires if the generator is not constructed and ready for electrification on the date to which the approval had been extended.

(16) On and after December 1, 2015, the Minister may not extend the term of any community feed-in tariff approval. 2010, c. 14, s. 4; 2015, c. 31, s. 25.

#### **Generation facilities**

**4AA (1)** In this Section, "generation facility" means a renewable low-impact electricity generation facility as prescribed by the regulations.

(2) The Minister may require a public utility to enter into a contract for the purchase of some or all of the output of a generation facility.

(2A) The Minister may require a public utility to enter into a sale agreement for some or all of the output from a specific generation facility that has received a purchase agreement under subsection (2), and such output must be sold to one or more customers, as specified by the Minister.

(3) Subsection (2) applies only to a generation facility that is in operation when this Section comes into force and providing electricity to one or

more customers, or for a proposed generation facility, if the generation facility was not previously issued a power purchase agreement under another program under this Act.

(4) The Minister shall issue a purchase agreement to the public utility and a generation facility and shall determine the terms included in the agreement.

(4A) The Minister may issue a sale agreement to the public utility and a specified customer, as described in subsection (2A), and shall determine the terms included in the agreement, including the specification of the customer or customer.

(5) The Minister may only issue a purchase agreement to a generation facility prescribed by the regulations.

(6) The Minister shall ensure the terms and conditions contained in an agreement referred to in subsection (2) or (2A) are in the best interests of the ratepayers.

(7) A public utility is entitled to recover amounts it is required to pay for electricity supplied to it pursuant to this Section through rates approved by the Board under the *Public Utilities Act*.

(7A) Notwithstanding subsection (7), the terms of an agreement referred to in subsection (2) or (2A) do not require approval of the Board under the *Public Utilities Act*.

(8) The Governor in Council may make regulations respecting any aspect of an agreement referred to in subsection (2) or (2A), including

- (a) prescribing facilities or classes of facilities as generation facilities;
- (b) the time frame for entering into a contract to purchase the generation output;
- (c) setting a maximum price per kilowatt hour for the renewable low-impact electricity;
- (d) the minimum term for a purchase agreement;
- (da) the terms and conditions of a sale agreement referred to in subsection (2A);
- (e) any other matter the Governor in Council considers necessary or advisable for the proper administration of the program.

(9) The exercise by the Governor in Council of the authority contained in subsection (8) is a regulation within the meaning of the *Regulations Act*. 2022, c. 12, s. 6; 2023, c. 17, s. 1.

#### **Public utility awarded contract by IESO**

**4AB** Where a public utility is awarded a contract by the IESO, it shall procure all electricity and energy storage in accordance with the *More Access to Energy Act* and the regulations made under that Act. 2024, c. 2, s. 19.



**Procurement of renewable low-impact electricity or energy storage****4B (1)** Where

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

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

(c) the Governor in Council directs a procurement in relation to a program established pursuant to Section 4C;

(d) the Governor in Council directs a procurement in relation to a generator within the meaning of the *Marine Renewable-energy Act*; or

(e) the Governor in Council directs a procurement of renewable low-impact electricity or energy storage in relation to a program established pursuant to Section 4BA,

the Governor in Council may appoint a procurement administrator to conduct a procurement for renewable low-impact electricity or energy storage.

**(1A)** A procurement administrator appointed under subsection (1) may not be a civil servant employed by the Government at the time of the appointment.

**(1B)** The Governor in Council may direct a single procurement to procure renewable low-impact electricity or energy storage for one or more programs listed under clause (1)(b), (c) or (e).

**(2)** A procurement 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 procurement 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 procurement 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 procurement 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 procurement administrator for a procurement under subsection (1), the procurement administrator, instead of the public utility, shall issue a request for proposals and award the contract or contracts for the procurement.

(7A) The Governor in Council may make regulations relating to the content and conduct of a request for proposals undertaken by a procurement administrator, and the awarding of any contracts.

(7B) The Governor in Council may make regulations limiting the parties who may participate in a request for proposals undertaken by a procurement administrator pursuant to clauses (1)(c) and (d).

(8) Where the Governor in Council does not appoint a procurement 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 electricity and energy storage under a contract awarded by a procurement administrator pursuant to a request for proposals authorized pursuant to this Section and the regulations.

(10) A procurement administrator shall evaluate responses to a request for proposals and choose successful bidders, and provide a written decision to the public utility and to each bidder in the manner and within the time prescribed by the regulations.

(10A) The Governor in Council may make regulations for the purpose of subsection (10).

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

(12) Where a procurement administrator has selected one or more bidders for the supply of electricity or energy storage to a public utility, the public utility shall enter into the agreements necessary to evidence the procurement within 90 days of the written decision referred to in subsection (10).

(12A) The Governor in Council may make regulations respecting the content of the agreements necessary to evidence the procurement.

(13) The Board shall allow a public utility to recover the costs of the public utility's contracts referred to in subsection (12) through its rates approved by the Board under the *Public Utilities Act*.

(13A) A procurement administrator shall, in consultation with the public utility, prepare standard-form agreements to be used for procuring renewable low-impact electricity or energy storage under this Section which must be approved by the Board before any procurement.

(13B) The public utility shall, in a timely manner, provide all data or information reasonably required and requested by the procurement administrator for

the purpose of preparing the standard-form agreements for procuring renewable low-impact electricity or energy storage.

(13C) Any dispute between the public utility and a procurement administrator must be arbitrated before the Board.

(14) The exercise by the Governor in Council of the authority contained in subsections (7A), (7B), (10A) and (12A) is a regulation within the meaning of the *Regulations Act*. 2010, c. 14, s. 4; 2015, c. 31, s. 26; 2022, c. 12, s. 7; 2023, c. 6, s. 2.

### Green Choice Program

**4BA** (1) In this Section and Sections 4BB to ~~4BD~~ [and 4BC],

(a) “Green Choice Program” means the program developed pursuant to subsection (2);

(b) “participant” means a prescribed person or entity who is authorized to take part in the program referred to in subsection (2);

(c) “supplier” means an independent power producer.

(2) The Minister shall develop and maintain the Green Choice Program to procure renewable low-impact electricity and energy storage, provided by a supplier, to meet a participant’s electricity load through a billing structure set out in the regulations.

(3) A participant may apply to the Minister to take part in the Green Choice Program by submitting an application in the form and in accordance with the procedure prescribed by the regulations.

(4) The Minister may, in writing,

(a) delegate some or all of the responsibilities for the Green Choice Program to a third party, including the Procurement Administrator, with the requisite qualifications and experience; and

(b) revoke or revise a delegation made under clause (a) at any time. 2022, c. 12, s. 8; 2023, c. 6, s. 3.

### Participants

**4BB** (1) Nova Scotia Power Incorporated shall issue proof of renewable energy certification for all participants in the Green Choice Program on an annual basis.

(2) Nova Scotia Power Incorporated shall make any necessary billing adjustments to ensure that participants are not subject to any costs related to Nova Scotia Power Incorporated’s compliance with the *Greenhouse Gas Emissions Regulations* made under subsection 28(6) and Section 112 of the *Environment Act* for electricity procured under the Green Choice Program.

(3) Nova Scotia Power Incorporated shall abide by the terms of the contracts issued under the Green Choice Program, including the participant agreements. 2022, c. 12, s. 8.

**Regulations**

**4BC (1)** The Governor in Council may make regulations respecting any aspect of the Green Choice Program, including

- (a) program requirements, conditions and limitations;
- (b) participant eligibility requirements;
- (c) supplier eligibility requirements;
- (d) the form and information required for a participant's application;
- (e) a participant's application process and fees;
- (f) the responsibilities of the Minister with respect to receiving and evaluating a participant's application;
- (g) the amount and type of renewable low-impact electricity and energy storage that may be procured;
- (h) the percentage of renewable low-impact electricity that may be procured based on a participant's electricity load;
- (i) establishing time frames which set out service standards Nova Scotia Power Incorporated, the participants and suppliers must meet;
- (j) the content and requirements with respect to contracts between Nova Scotia Power Incorporated, a participant and a supplier;
- (k) the process, requirements and limitations with respect to the billing structure for a participant in the Green Choice Program;
- (l) tiered pricing for participants to reduce risk to non-participating ratepayers, which tiered pricing must be incorporated by Nova Scotia Power Incorporated into the billing structure;
- (m) a maximum amount for the tiered pricing range;
- (n) forms or agreements associated with the Green Choice Program;
- (o) obligations relating to data collection, reporting and the sharing of information;
- (p) policies and guidelines;
- (q) enforcement measures and mechanisms;
- (r) costs, fees and penalties;
- (s) how electricity procured under the Green Choice Program meets renewable low-impact electricity standards;
- (t) prescribing anything that is to be prescribed pursuant to Sections 4BA and 4BB;
- (u) any other matter the Governor in Council considers necessary or advisable for the proper administration of the Green Choice Program.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2022, c. 12, s. 8; 2023, c. 6, s. 4.

**Low-impact electricity-generation facility interconnection programs**

**4C (1)** The Governor in Council may make regulations establishing programs for the interconnection of a prescribed renewable low-impact electricity-generation facility to the electrical grid of a public utility.

(2) To qualify for interconnection with the electrical grid of a public utility under a program established pursuant to the regulations under subsection (1), a renewable low-impact electricity-generation facility must be awarded a contract by the Procurement Administrator under Section 4B.

(3) The regulations under subsection (1) must include program limits based upon energy production capacity, total energy output or public utility ratepayer impacts.

(4) The regulations under subsection (1) may include

- (a) program requirements and conditions;
- (b) application processes;
- (c) approval or licensing requirements;
- (d) the identification of equipment required to be used to
  - (i) measure the amount of electricity produced by the generator and the time that it is supplied,
  - (ii) measure the amount of electricity supplied to the customer by the public utility and the time that it is supplied,
  - (iii) measure the amount of electricity supplied to the public utility by the customer and the time that it is supplied,
  - (iv) adhere to such service or performance standards as may be prescribed, and
  - (v) meet any other requirements that may be prescribed;
- (e) obligations relating to data collection, reporting, and the sharing of information with the Minister, the public utility, the owner of the generation facility or any other party;
- (f) enforcement measures and mechanisms;
- (g) costs, fees and penalties; and
- (h) any other matter or thing the Governor in Council considers necessary or advisable for the proper administration of the program.

(5) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2015, c. 31, s. 27.

**Energy-storage project**

**4D (1)** In this Section, “energy-storage project” means a facility, or group of facilities, that is comprised of one or more energy-storage units and includes any structures, equipment, controls or other components to support the provision of services to the electricity system.

**(2)** Notwithstanding any procurement functions of the IESO under the *More Access to Energy Act*, the Minister may require a public utility to enter into an agreement for the purchase of some or all of the services provided by an energy-storage project.

**(2A)** The Governor in Council may prescribe an energy-storage project proposed by a public utility and owned wholly or in majority by the public utility, if in the opinion of the Governor in Council the project is in the best interests of ratepayers.

**(3)** Subsections (2) and (2A) apply only to an energy-storage project that

- (a) provides electricity system benefits;
- (b) reduces costs for ratepayers; and
- (c) is unique or innovative.

**(4)** For the purpose of subsection (2), upon an energy-storage project being prescribed by the Governor in Council, the Minister shall issue a standard-form energy-storage agreement to a public utility and a project owner, including pricing or compensation for services provided, with any additional terms and conditions as may be prescribed by the regulations.

**(4A)** When prescribing an energy-storage project under subsection (2A), the Governor in Council shall prescribe any terms and conditions of the project that the Governor in Council considers necessary, including the project size and location.

**(5)** A public utility subject to an energy-storage agreement under this Section shall, in a timely manner, provide the Minister with any operational data or other information the Minister deems necessary to structure the agreement.

**(6)** The Minister shall ensure the terms and conditions contained in an energy-storage agreement under this Section are in the best interests of ratepayers.

**(7)** A public utility may recover amounts paid for energy storage under this Section through rates approved by the Board under the *Public Utilities Act*.

**(8)** A public utility shall permit any plant or equipment relating to an energy-storage project approved under this Section and the regulations to connect to its electrical grid in the manner and time frame provided by the regulations.

**(9)** The Governor in Council may make regulations respecting any aspect of an energy-storage project or an energy-storage agreement under this Section, including

- (a) prescribing the eligible project, including structures, equipment, controls or other components of a project;
- (b) the time frame for entering into an agreement to purchase the output from a project;
- (ba) prescribing a project under subsection (2A);
- (bb) prescribing project terms and conditions under subsection (4A);
- (c) obligations for data collection related to the use of the service, operations and economics of a project, and the format in which this information is to be provided to the Minister;
- (d) the minimum and maximum term for an agreement;
- (e) any other matter the Governor in Council considers necessary or advisable for the proper administration of the program.

(10) The exercise by the Governor in Council of the authority contained in subsection (9) is a regulation within the meaning of the *Regulations Act*. 2023, c. 6, s. 5; 2023, c. 17, s. 2; 2024, c. 2, s. 20.

### **Curtailment**

**4E (1)** In this Section,

- (a) “curtailment” means, based on instruction sent to a generation facility from the system operator, the decrease or cessation of the generation facility’s generation output;
- (b) “system operator” means the IESO or Nova Scotia Power Incorporated.

(2) This Section applies to a generation facility that has received, on or after March 1, 2024, a power-purchase agreement under a procurement initiated under Section 4B.

(3) A generation facility may not be compensated for any curtailment until such curtailment exceeds five per cent of its total energy bid as defined within the generation facility’s power-purchase agreement.

(4) Where a generation facility’s curtailment exceeds five per cent of its total energy bid, the generation facility shall be compensated for the curtailment by the purchaser of the generation facility’s generation output at the rate set out in the power-purchase agreement unless

- (a) the generation facility was not generating electricity at the time the system operator instructed the facility to decrease or stop its generation output; or
- (b) the instruction to decrease or stop the generation facility’s generation output was sent due to an unforeseeable emergency or *force majeure* event.

(5) The system operator shall determine and define what constitutes an emergency or *force majeure* event for the purpose of clause (4)(b) and, where requested by a generation facility, shall provide that reasoning to the generation facility.

(6) A dispute respecting a curtailment may be appealed to the Board. 2024, c. 2, s. 21.

**Green Button program**

**4F (1)** In this Section,

(a) “account holder” means a person or entity who has an account with Nova Scotia Power Incorporated;

(b) “energy” means electricity;

(c) “energy data” means any energy usage and account holder information identified in REQ.21.1.5t or REQ.21.2.6t in the NAESB ESPI standard, certified by the Green Button Alliance, that is collected by Nova Scotia Power Incorporated and made available to an account holder in the normal course of Nova Scotia Power Incorporated’s operations, excluding any data collected with respect to projects that are being undertaken on a trial basis.

(2) On or before September 1, 2022, Nova Scotia Power Incorporated must present to the Board for review and approval a plan that would bring Nova Scotia Power Incorporated into compliance with the Green Button Alliance’s testing and standards, including an implementation date that occurs no later than April 1, 2023.

(3) Nova Scotia Power Incorporated shall comply with such other requirements as may be prescribed by the regulations for the purpose of this Section, including publicly releasing additional data.

(4) Nova Scotia Power Incorporated shall submit to the Board or to the Minister such reports and information as the Board or the Minister, as the case may be may require from time to time, including a summary of how many customers have opted into the Green Button program.

(5) Nova Scotia Power Incorporated shall implement the NAESB ESPI standard and ensure that its implementation of the requirements set out in this Section is certified by the Green Button Alliance to its “Connect My Data” and “Download My Data” standards on or before April 1, 2023, unless granted an extension by the Board.

(6) Nova Scotia Power Incorporated shall in accordance with the NAESB ESPI standard and any additional procedural requirements that may be established by the Board, make energy data about an account holder available to

(a) the account holder; and

(b) if applicable, a person or entity authorized by the account holder to receive the energy data.

(7) Nova Scotia Power Incorporated shall ensure that account holders and, where applicable, persons authorized by the account holder, have access to the account holder’s energy data for at least the lesser of

(a) the previous twenty-four months; and



(b) the period of time within the previous twenty-four months during which the account holder had an account with Nova Scotia Power Incorporated.

(8) Nova Scotia Power Incorporated shall ensure that the energy data made available pursuant to subsections (6) and (7) provides energy usage information for intervals of one hour or less, subject to any limitations of Nova Scotia Power Incorporated's metering infrastructure.

(9) The Governor in Council may make regulations

(a) governing the manner in which energy data must be made available by Nova Scotia Power Incorporated, including prescribing additional data to be released publicly and in what form and manner;

(b) requiring and governing reports and information that Nova Scotia Power Incorporated must provide to the Minister, the Board or other persons or entities, including prescribing the form and manner in which the reports or information must be provided;

(c) prescribing anything that is to be prescribed pursuant to this Section.

(10) The exercise by the Governor in Council of the authority contained in subsection (9) is a regulation within the meaning of the *Regulations Act*, 2022, c. 12, s. 9.

#### Minister may delegate

**4G (1)** The Minister may, in writing, delegate to an employee of the Department of ~~Natural Resources and Renewables~~ [Energy], who, in the Minister's opinion, has the requisite qualifications and experience, any power or duty conferred or imposed on the Minister under this Act, with the exception of regulation-making powers.

(2) Where the Minister delegates a power or duty under subsection (1), the Minister may prescribe how the power or duty is to be exercised or performed and impose any requirements in relation to or restrictions on the exercise or performance of the power or duty that the Minister considers appropriate.

(3) The Minister may revoke or revise a delegation made under subsection (1). 2022, c. 12, s. 9.

#### Regulations

**5 (1)** The Governor in Council may make regulations

(a) setting out the date or dates required for the purpose of subsection 2(2), 3(1), 3C(1), 3G(1) or 4(1);

(b) respecting the tariff referred to in subsection 3(2);

(c) respecting import and export rights;

(ca) prescribing classes or categories of retail suppliers who are deemed to be public utilities and any provisions of the *Public Utilities Act* that do not apply with respect to them;

- (cb) prescribing classes or categories of retail suppliers who do not require retail supplier licences to act or purport to act as retail suppliers;
- (cc) prescribing tariffs, procedures and standards of conduct for the purpose of clause 3G(1)(g);
- (d) respecting renewable electricity standards, their administration and enforcement;
- (da) prescribing terms and conditions required to be included in a power-purchase or energy storage 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 procurement 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 procurement administrator;
- (dn) assigning additional responsibilities to a procurement administrator;
- (do) requiring compliance by a procurement administrator with policies and procedures;
- (dp) respecting records to be maintained by, reporting by and the audit of the records of a procurement administrator;
- (dq) respecting written decisions of a procurement 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;

(dv) to (dy) *repealed 2022, c. 12, s. 10.*

(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.

**(1B)** The Board may make regulations

(a) prescribing the form and manner of applying, and the procedure for considering an application, for a retail supplier licence or an amendment to a retail supplier licence;

(b) prescribing fees relating to any matter provided for in this Act or the regulations;

(c) prescribing the terms and conditions of a retail supplier licence;

(d) respecting the amendment, suspension, reinstatement or cancellation of a retail supplier licence;

(e) respecting the transfer or assignment of a retail supplier licence.

**(2)** The exercise by the Governor in Council or the Board 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; 2013, c. 34, s. 5; 2015, c. 31, s. 28; 2022, c. 12, s. 10; 2023, c. 6, s. 6.

### 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

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