



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

RENEWABLE ENERGY ACT

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to May 13, 2021. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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RENEWABLE ENERGY ACT

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RENEWABLE ENERGY ACT

CHAPTER R-12.1

WHEREAS the use of non-renewable energy sources for the generation of electric energy may be damaging to the environment;

AND WHEREAS the use of renewable energy sources for the generation of electric energy will allow environmentally friendly energy to be produced in the province and reduce dependence on imported energy and fuels;

AND WHEREAS the use of available renewable energy sources for the generation of electric energy will encourage the establishment of new energy suppliers in the province, enhance the capacity and reliability of the provincial energy supply system for present and future needs and offer potential price stability;

AND WHEREAS it is desirable to promote the development of a Prince Edward Island solution to the energy requirements of the province;

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. Definitions

(1) In this Act

- (a) “**bill reading period**” means, in respect of a public utility, the period of time at the end of which the public utility regularly reads the meter of a customer to determine the amount of electric energy that has been furnished to the customer during that period;
- (b) “**biofuel**” means any liquid or gaseous fuel that is derived from either
 - (i) organic material, or
 - (ii) a metabolic byproduct of organic material;
- (c) “**Commission**” means the Island Regulatory and Appeals Commission established under section 2 of the *Island Regulatory and Appeals Commission Act R.S.P.E.I. 1988, Cap. I-11*;
- (d) repealed by *2010, c.9, s.7(2)*;
- (e) “**environmental attributes**” means environmental premiums or tradable credits that are recognized in Canada or elsewhere as being derived from the generation of an amount of electric energy from a renewable energy source;
- (e.1) “**extra-provincial renewable energy supplier**” means a person that
 - (i) owns or operates a renewable energy generation facility located outside of the province, and
 - (ii) supplies renewable energy to a public utility;
- (f) “**large capacity renewable energy generator**” means a person, other than a public utility or a municipal renewable energy generator, that owns or operates a renewable energy generation facility with a name plate capacity equal to or greater than 1 megawatt;
- (g) “**kW**” means kilowatt;

- (h) “**maximum rated electric output**” means, in respect of an electric generator, the maximum rated electric output of the electric generator, as determined by its manufacturer;
- (i) “**medium capacity renewable energy generator**” means a person, other than a public utility or a municipal renewable energy generator, that owns or operates a renewable energy generation facility with a name plate capacity of greater than 100 kilowatts and less than 1 megawatt;
- (j) “**MW**” means megawatt;
- (k) “**Minister**” means the Minister of Transportation and Infrastructure;
- (l) “**municipal renewable energy generator**” means a municipality or a municipal corporation, other than the City of Summerside electric utility, that owns or operates a renewable energy generation facility of any name plate capacity;
- (m) “**name plate capacity**” means, in respect of a renewable energy generation facility, the sum of the maximum rated electric output of each electric generator of the renewable energy generation facility;
- (n) “**net-metering system agreement**” means an agreement entered into by a public utility and a small capacity renewable energy generator under section 11;
- (o) “**net-metering system**” means a system that operates in parallel with the electrical distribution facilities of a public utility and that measures, by means of one or more meters, the amount of electric energy that is supplied
 - (i) by the public utility to a small capacity renewable energy generator, and
 - (ii) by the small capacity renewable energy generator to the public utility;
- (p) “**organic material**” means organic material from recently living plants or animals that is harvested, collected or used for the purpose of producing energy, and includes
 - (i) biofuel,
 - (ii) effluent, and
 - (iii) organic material obtained from municipal waste or garbage;
- (q) “**Operating Fund**” means the Operating Fund as defined in the *Financial Administration Act* R.S.P.E.I. 1988, Cap. F-9;
- (r) “**person**” includes an individual, partnership, corporation, municipality, municipal corporation and cooperative association;
- (s) “**power rate class**” means, in respect of a public utility, a rate class of the public utility that has been approved by the Commission under the *Electric Power Act* R.S.P.E.I. 1988, Cap. E-4;
- (t) “**public utility**” means a public utility that is authorized to furnish service under the *Electric Power Act*;
- (u) “**renewable energy source**” means any source of renewable energy from which electric energy may be generated and includes
 - (i) the sun,
 - (ii) the wind,
 - (iii) flowing water,
 - (iv) organic material, and
 - (v) such other sources as are prescribed by the regulations;
- (v) “**renewable energy generator**” means, unless the context indicates otherwise, a
 - (i) large capacity renewable energy generator,
 - (ii) medium capacity renewable energy generator,



- (iii) municipal renewable energy generator, and
- (iv) small capacity renewable energy generator;
- (w) “**renewable energy generation facility**” means a facility for generating electric energy from any renewable energy source, and includes any structures, ancillary equipment or other things used for that purpose;
- (x) “**service**” means service as defined in the *Electric Power Act*;
- (y) “**service area**” means
 - (i) in respect of Maritime Electric Company, Limited, the area of the province in which it is authorized under the *Electric Power Act* to furnish service to customers,
 - (ii) in respect of the City of Summerside electric utility,
 - (A) the area of the province inside the municipal boundaries of the City of Summerside in which it furnishes electric energy to customers, and
 - (B) the area of the province outside the municipal boundaries of the City of Summerside in which it is authorized under the *Electric Power Act* to furnish service to customers, and
 - (iii) in respect of any other public utility authorized to furnish service under the *Electric Power Act*, the area of the province in which the public utility is authorized to furnish service;
- (z) “**small capacity renewable energy generator**” means a person, other than a public utility, that owns or operates a renewable energy generation facility with a name plate capacity equal to or less than 100 kilowatts.

Electric energy obtained from a renewable energy source

- (2) For the purposes of this Act, a public utility obtains electric energy from a renewable energy source, or from renewable energy sources, if the public utility obtains the electric energy from
 - (a) a renewable energy generator;
 - (a.1) an extra-provincial renewable energy supplier;
 - (b) a renewable energy generation facility that is owned or operated by the public utility; or
 - (c) any combination of the generators, facilities or suppliers referred to in clauses (a) to (b).

Renewable energy generator furnishing service

- (3) For greater certainty, where a renewable energy generator is issued a permit under the *Electric Power Act* that authorizes the renewable energy generator to furnish service in the province or an area of the province, the renewable energy generator ceases to be a renewable energy generator for the purposes of this Act and shall be considered to be a public utility.

Summerside electric utility, determination of sales

- (4) Repealed by 2015,c.14,s.2. 2004,c.16,s.1; 2006,c.38,s.1; 2008,c.30,s.1; 2010,c.9,s.7(2); 2015,c.14,s.1,2; 2021,c.8,s.3.

2. Administrative Responsibility

The Minister is responsible for the administration of this Act. 2004,c.16,s.2.

PUBLIC UTILITIES

Required percentage of electric energy from renewable energy sources

Sections 3 to 5 Repealed by 2015,c.14,s.3. 2004,c.16,s.3,4,5; 2015,c.14,s.3.

6. Definition, “former section”

- (1) In this section, “**former section**” means section 6 of this Act as it read immediately before the date this section comes into force.

Submission deemed not made

- (2) Any submission made under the former section to the Commission before September 1, 2010 in respect of the period from 2010 to 2012 shall be deemed not to have been made and shall not be reviewed or approved by the Commission. 2004,c.16,s.6; 2006,c.38,s.2; 2010,c.9,s.7(3).

RENEWABLE ENERGY GENERATORS

7. Distribution prohibition

Repealed by 2006,c.38,s.3. 2004,c.16,s.7; 2006,c.38,s.3.

8. Minimum purchase price

- (1) Every public utility that purchases electric energy from

- (a) a municipal renewable energy generator;
- (b) a medium capacity renewable energy generator; or
- (c) a large capacity renewable energy generator,

shall pay at least the prescribed minimum rate or price for the electric energy.

Exception

- (2) Subsection (1) does not apply in respect of any payments that a public utility makes to a renewable energy generator referred to in that subsection for the purchase of electric energy under an agreement that the public utility and the renewable energy generator entered into before December 20, 2005. 2004,c.16,s.8f; 2006,c.38,s.4.

9. Development restrictions

- (1) The Lieutenant Governor in Council may make regulations regulating or prohibiting the development, in all or any area of the province, of renewable energy generation facilities that utilize the wind and that have a name plate capacity greater than 100 kW.

Paramountcy

- (2) Where there is a conflict or inconsistency between a provision of a regulation made under this section and any provision of another enactment, the provision of the regulation made under this section shall prevail to the extent of the conflict or inconsistency.

Offence

- (3) Every person who contravenes a provision of a regulation made under this section is guilty of an offence and liable on summary conviction to a fine of not more than \$50,000. 2004,c.16,s.9; 2006,c.38,s.5.



10. Crown appropriation and reservation of environmental attributes

- (1) Any environmental attributes that are earned by a large capacity renewable energy generator or a public utility from the generation of electric power are appropriated and reserved to Her Majesty in right of the province, and shall be held by Her Majesty free and clear of
- (a) any claim for compensation by the large capacity renewable energy generator; or
 - (b) any encumbrance or other right of the large capacity renewable energy generator or of any other person.

Order

- (2) The Minister may, by order, require a large capacity renewable energy generator to take such actions, at the expense of the large capacity renewable energy generator, as the Minister considers necessary in respect of the appropriation and reservation, under subsection (1), to Her Majesty in right of the province of any environmental attributes earned by the large capacity renewable energy generator.

Offence

- (3) Every large capacity renewable energy generator who contravenes an order of the Minister under subsection (2) is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000.

Continuing offence

- (4) Where a large capacity renewable energy generator contravenes an order of the Minister under subsection (2) for more than one day, the large capacity renewable energy generator is guilty of a separate offence for each day that the contravention continues. *2004,c.16,s.10; 2006,c.38,s.6.*

NET-METERING SYSTEM AGREEMENTS WITH SMALL CAPACITY RENEWABLE ENERGY GENERATORS

11. Request for net-metering system agreement

- (1) A small capacity renewable energy generator may request a public utility to enter into a net-metering system agreement to operate a net-metering system with the small capacity renewable energy generator, if the small capacity renewable energy generator has a renewable energy generation facility that is located in the service area of the public utility.

Idem

- (2) A request for a net-metering system agreement with a public utility shall be made by submitting to the public utility
- (a) two copies of the prescribed net-metering system agreement that have been completed by the small capacity renewable energy generator; and
 - (b) such drawings or information concerning the interconnection equipment or renewable energy generation facility of the small capacity renewable energy generator that the public utility reasonably requires to assist it in carrying out an inspection under subsection (3).

Energy credits – alternative expiry date

- (2.1) For the purposes of subsection 13(7), a small capacity renewable energy generator may set out in the copies of the net-metering system agreement that the small capacity renewable energy generator submits to a public utility under subsection (2) the date on which any

amount of electric energy, measured in kilowatt hours, that is credited during the term of the agreement to the account of the small capacity renewable energy generator, in respect of a bill reading period of the public utility in a calendar year, expires in the following calendar year.

Idem

- (2.2) The date specified under subsection (2.1) by a small capacity renewable energy generator in a net-metering system agreement must be the last day of a calendar month other than October.

Inspection

- (3) Within 30 days of receiving a request made by a small capacity renewable energy generator in accordance with subsection (2), a public utility shall inspect the interconnection equipment and the renewable energy generation facility of the small capacity renewable energy generator to determine if the proposed operation of a net-metering system with the small capacity renewable energy generator is likely to have a serious adverse impact on
- (a) the service provided by the public utility to its other customers;
 - (b) the poles, lines, equipment or plant of the public utility; or
 - (c) the ability of the public utility to otherwise operate and maintain its business and electrical system in a manner consistent with
 - (i) the *Electric Power Act*,
 - (ii) the *Electrical Inspection Act* R.S.P.E.I. 1988, E-3, or the regulations made under that Act, or
 - (iii) any current standard published by the Institute of Electrical and Electronics Engineers Inc. that is not inconsistent with any provision of one of the Acts or regulations referred to in subclauses (i) and (ii).

Idem

- (4) On the request of an employee or agent of a public utility who wishes to conduct an inspection referred to in subsection (3), a small capacity renewable energy generator shall, during normal business hours, allow such employee or agent access to the interconnection equipment and renewable energy generation facility of the small capacity renewable energy generator.

Inspection reveals likely adverse impact

- (5) If a public utility determines, after an inspection under subsection (3), that the proposed operation of a net-metering system with the small capacity renewable energy generator will likely have a serious adverse impact of a type described in subsection (3), the public utility shall, within 30 days of the date of the inspection,
- (a) refuse to enter into a net-metering system agreement with the small capacity renewable energy generator; and
 - (b) serve the small capacity renewable energy generator with
 - (i) a written notice of its decision setting out the reasons for the refusal, and
 - (ii) a copy of section 14.

Requirement to enter into net-metering system agreement

- (6) Within 70 days of the receipt of a request from a small capacity renewable energy generator made in accordance with subsection (2), a public utility shall enter into a net-metering system agreement with the small capacity renewable energy generator if



- (a) the renewable energy generation facility of the small capacity renewable energy generator
 - (i) is located in the service area of the public utility, and
 - (ii) has a name plate capacity of less than 100 kW; and
- (b) the public utility determines, after an inspection under subsection (3), that the proposed operation of a net-metering system with the small capacity renewable energy generator will not likely have a serious adverse impact of a type described in subsection (3).

Signing agreement and return of a copy

- (7) Where a public utility is required to enter into a net-metering system agreement under subsection (6), the public utility shall
 - (a) sign the copies of the net-metering system agreement submitted by the applicant; and
 - (b) return a copy of the signed net-metering system agreement to the applicant.

Termination

- (8) Subject to subsection (13), a net-metering system agreement continues in force until the date of termination specified in a notice given by a party to the agreement under subsections (9) or (11).

Idem

- (9) A small capacity renewable energy generator that is a party to a net-metering system agreement and that wishes to terminate the agreement may do so at any time by giving a written notice to the other party that specifies the date of termination.

Idem

- (10) A public utility that is a party to a net-metering system agreement may terminate the agreement only if
 - (a) the small capacity renewable energy generator that is a party to the agreement fails to comply with a condition of the agreement or any provision of this Act or the regulations; or
 - (b) the public utility considers it necessary to do so
 - (i) to avoid a serious adverse impact of a type described in subsection 11(3), or
 - (ii) to otherwise protect public safety.

Notice

- (11) A public utility that wishes to terminate a net-metering system agreement under subsection (10) shall serve a written notice on the small capacity renewable energy generator that is a party to the agreement that
 - (a) sets out the reasons for the termination;
 - (b) indicates the date of the termination; and
 - (c) includes a copy of section 14.

Date of termination

- (12) The date of termination specified in a written notice given under subsections (9) and (11) must be a date at least five days following the date on which the notice is served.

Notice

- (13) Where a public utility terminates a net-metering system agreement with a small capacity renewable energy generator in the circumstances referred to in clause (10)(b), the public utility shall as soon as possible after the termination, serve on the small capacity renewable energy generator a written notice that includes the information required under subsection (11). *2004, c.16, s.11; 2006, c.20, s.1.*

12. Operation of net-metering system under agreement

- (1) A public utility shall, after entering into a net-metering system agreement with a small renewable energy generator, permit the small renewable energy generator to operate a net-metering system in parallel with the public utility's electric system in accordance with the terms and conditions of this Act, the regulations and the net-metering system agreement.

Charges, restriction

- (2) Under a net-metering system agreement with a small capacity renewable energy generator, a public utility shall not charge the small capacity renewable energy generator any fee or charge that is not charged or imposed on, or that differs in amount from any such fee or charge that is imposed on, any other customer of the public utility who is in the same power rate class as the small capacity renewable energy generator. *2004, c.16, s.12.*

13. Installation of meters

- (1) Within 30 days after entering into a net-metering system agreement with a small renewable energy generator, a public utility shall install, at a location agreeable to both parties, such meters, and undertake such other actions, as are necessary to establish a net-metering system with the small renewable energy generator.

Inspection, access

- (2) After a public utility has installed a net-metering system for a small renewable energy generator, the small renewable energy generator shall allow, during normal business hours, the employees or agents of the public utility to have access to the net-metering system for the purposes of
- (a) testing or inspecting the net-metering system; and
 - (b) reading the meters of the net-metering system.

Ownership of meters

- (3) For greater certainty, the meters installed by a public utility pursuant to subsection (2) remain the property of the public utility.

Reading meters

- (4) A public utility that installs a net-metering system with a small capacity renewable energy generator shall, at the end of each bill reading period of the public utility,
- (a) simultaneously read the meters of the system to determine the amounts of electric energy that have been produced and consumed during the bill reading period by the small capacity renewable energy generator; and
 - (b) give to the small capacity renewable energy generator a notice that advises the small capacity renewable energy generator of
 - (i) the amount of electric energy that the small capacity renewable energy generator produced during the bill reading period, if any,



- (ii) the amount of electric energy that the small capacity renewable energy generator consumed during the bill reading period,
- (iii) the difference between the amounts referred to in subclauses (i) and (ii),
- (iv) any entitlement that the small capacity renewable energy generator has to a credit under subsection (5), and
- (v) if the small capacity renewable energy generator produced no electric energy during the bill reading period, or produced an amount of electric energy less than that the small capacity renewable energy generator consumed during that period, the dollar amount that the small capacity renewable energy generator is obliged to pay to the public utility.

Credits

- (5) Where, after a public utility installs a net-metering system with a small capacity renewable energy generator, the small capacity renewable energy generator produces an amount of electric energy during a bill reading period that exceeds the amount of electric energy that the small capacity renewable energy generator consumes during that period, the small capacity renewable energy generator is entitled to a credit, measured in kilowatt-hours, from the public utility equal to the difference between the amount of electric energy that small capacity renewable energy generator produced and consumed.

Application

- (6) An amount of electric energy that is due as a credit from a public utility to a small capacity renewable energy generator in respect of a bill reading period shall, subject to subsection (7),
 - (a) be credited to the account of the small capacity renewable energy generator; and
 - (b) be applied by the public utility against the amount of electric energy, as measured in kilowatt-hours, that the small capacity renewable energy generator consumes in the following bill reading period or a subsequent bill reading period.

Expiry

- (7) Where an amount of electric energy, measured in kilowatt hours, is credited to the account of a small capacity renewable energy generator in respect of a bill reading period of a public utility in a calendar year, the amount of the credit expires
 - (a) on October 31 in the following calendar year if
 - (i) the amount of the credit cannot, before that date, be applied in accordance with subsection (6), and
 - (ii) the net-metering system agreement between the small capacity renewable energy generator and the public utility is silent as to the expiry date of such a credit or specifies an expiry date that does not meet the requirements of subsection 11(2.2); and
 - (b) on the date, other than October 31, in the following calendar year that is specified in the net-metering system agreement between the small capacity renewable energy generator and the public utility as the date such a credit expires, if
 - (i) the amount of the credit cannot, before that date, be applied in accordance with subsection (6), and
 - (ii) that expiry date meets the requirements of subsection 11(2.2). *2004,c.16,s.13; 2006,c.38,s.7; 2006,c.20,s.2.*

14. Appeals

- (1) Where
- (a) the request of a small capacity renewable energy generator for a net-metering system agreement is refused by a public utility; or
 - (b) a public utility terminates a net-metering system agreement with a small capacity renewable energy generator,

the small capacity renewable energy generator may, within 30 days from the date of the service of the notice of refusal or termination from the public utility, appeal the refusal or termination to the Commission.

Notice of appeal

- (2) An appeal to the Commission shall be commenced by serving a written notice of appeal on
- (a) the Commission; and
 - (b) the public utility.

Contents

- (3) A notice of appeal shall set out the grounds of the appeal and state briefly the allegations of fact relative thereto.

Appearance at hearing of appeal

- (4) On the hearing of an appeal, both the small capacity renewable energy generator and the public utility are entitled to appear and be heard and to submit further evidence.

Designation of person to hear appeal

- (5) The Commission may, in writing, designate a person to act on behalf of the Commission and hear an appeal under this section and any reference in this section to the Commission includes a person so designated.

Grounds of appeal in notice

- (6) No grounds of appeal shall be considered by the Commission other than the grounds of appeal set out in the notice of appeal.

Decisions

- (7) The Commission may, after hearing an appeal,
- (a) affirm the decision of the public utility to
 - (i) refuse to enter into a net-metering system agreement, or
 - (ii) terminate such an agreement; or
 - (b) order the public utility to enter into a net-metering system agreement with the applicant, that is subject to or includes such conditions, if any, specified in the order as the Commission considers appropriate. *2004, c.16, s.14.*

GENERAL

15. Service of documents

- (1) A notice that is required to be served under this Act is sufficiently served if it is
- (a) delivered personally to the person who is entitled to receive the notice; or
 - (b) sent by registered mail addressed to the person who is entitled to receive the notice,



- (i) where the person is a small capacity renewable energy generator, at the address last provided by the person in a request for a net-metering system agreement or in a notice of appeal, as the case may be,
- (ii) where the person is a public utility, at the latest address appearing on the records of the Commission, or
- (iii) where the person is the Commission, at the address of its office.

Service by registered mail

- (2) Where any notice mentioned in subsection (1) is served by registered mail, the service shall be deemed to be made on the third day after the date of mailing. *2004,c.16,s.15.*

16. Penalty

- (1) Every public utility or renewable energy generator who
 - (a) contravenes or violates section 7 or 8 of this Act; or
 - (b) fails, neglects, omits or refuses to do any Act or thing required of that public utility or renewable energy generator by any order of the Commission made under this Act,is liable to a penalty imposed by order of the Commission of not more than \$10,000.

Separate daily liability

- (2) Each day during which a prohibited activity subject to a penalty under subsection (1) continues gives rise to a separate liability to a penalty imposed by order of the Commission not exceeding \$500 for each day.

Application to Supreme Court

- (3) If any public utility or renewable energy generator fails to pay any penalty imposed by the Commission within the time fixed by the Commission for the payment of the penalty, the Commission may make application, without notice to the public utility or renewable energy generator, to the Supreme Court for an order that judgment for the amount of the penalty or unpaid portions of the penalty may be entered in the Supreme Court against the public utility or renewable energy generator.

Order

- (4) The Supreme Court shall, on application by the Commission under subsection (3), grant the order referred to in that subsection on proof by affidavit of the order of the Commission imposing the penalty and the amount of the penalty remaining.

Execution

- (5) On any judgment entered under this section, execution may be issued as on any other final judgment of the Supreme Court. *2004,c.16,s.16; 2010,c.9,s.7(4).*

17. Operating Fund

Every penalty or fine imposed or collected under the provisions of this Act shall be submitted to the Minister of Finance and deposited into the Operating Fund. *2004,c.16,s.17; 2010,c.31,s.3; 2012,c.17,s.2; 2015,c.28,s.3.*

18. Regulations

The Lieutenant Governor in Council may make regulations

- (a) prescribing a source of renewable energy for the purposes of subclause 1(u)(v);

- (b) repealed by *2015, c.14, s.4*;
- (c) respecting the minimum rate or price at which a public utility is required to purchase electric energy under section 8;
- (d) respecting the form and conditions of a net-metering system agreement;
- (e) defining any word or expression used in this Act that is not defined in this Act; and
- (f) generally for carrying out any of the purposes or provisions of this Act. *2004, c.16, s.18; 2006, c.38, s.8; 2015, c.14, s.4.*

19. to 20

(These sections make consequential amendments to other Acts. The amendments have been incorporated into those Acts.) *2004, c.16, s.19.*

