



## **PLEASE NOTE**

This document, prepared by the [Legislative Counsel Office](#), is an office consolidation of this Act, current to December 15, 2006. 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](#).

If you find any errors or omissions in this consolidation, please contact:

Legislative Counsel Office  
Tel: (902) 368-4291  
Email: [legislation@gov.pe.ca](mailto:legislation@gov.pe.ca)

## CHAPTER R-12.1

### RENEWABLE ENERGY ACT

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. (1) In this Act

- |                                                                                                                                                                                                                                                                           |                                            |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
|                                                                                                                                                                                                                                                                           | Definitions                                |
| (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; | bill reading period                        |
| (b) “biofuel” means any liquid or gaseous fuel that is derived from either                                                                                                                                                                                                | biofuel                                    |
| (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 <i>Island Regulatory and Appeals Commission Act</i> R.S.P.E.I. 1988, Cap. I-11;                                                                                    | Commission                                 |
| (d) “demand side management plan” means a plan referred to in section 6;                                                                                                                                                                                                  | demand side management plan                |
| (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;                                           | environmental attributes                   |
| (e.1) “extra-provincial renewable energy supplier” means a person that                                                                                                                                                                                                    | extra-provincial renewable energy supplier |

	(i) owns or operates a renewable energy generation facility located outside of the province, and (ii) supplies renewable energy to a public utility;
large capacity renewable energy generator	(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;
kW	(g) “kW” means kilowatt;
maximum rated electric output	(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;
medium capacity renewable energy generator	(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;
MW	(j) “MW” means megawatt;
Minister	(k) “Minister” means the Minister of Environment, Energy and Forestry;
municipal renewable energy generator	(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;
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;
net-metering agreement	(n) “net-metering system agreement” means an agreement entered into by a public utility and a small capacity renewable energy generator under section 11;
net-metering system	(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 organic material
- (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; Operating Fund
- (r) “person” includes an individual, partnership, corporation, municipality, municipal corporation and cooperative association; person
- (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; power rate class
- (t) “public utility” means a public utility that is authorized to furnish service under the *Electric Power Act*; public utility
- (u) “renewable energy source” means any source of renewable energy from which electric energy may be generated and includes renewable energy source
- (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 renewable energy generator
- (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; renewable energy generation facility
- (x) “service” means service as defined in the *Electric Power Act*; service
- (y) “service area” means service area
- (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 <i>Electric Power Act</i> to furnish service to customers, and
	(iii) in respect of any other public utility authorized to furnish service under the <i>Electric Power Act</i> , the area of the province in which the public utility is authorized to furnish service;
small capacity renewable energy generator	(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 kilowatt hours.
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 <ul style="list-style-type: none"> <li>(a) a renewable energy generator;             <ul style="list-style-type: none"> <li>(a.1) an extra-provincial renewable energy supplier;</li> </ul> </li> <li>(b) a renewable energy generation facility that is owned or operated by the public utility; or</li> <li>(c) any combination of the generators, facilities or suppliers referred to in clauses (a) to (b).</li> </ul>
Renewable energy generator furnishing service	(3) For greater certainty, where a renewable energy generator is issued a permit under the <i>Electric Power Act</i> 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) For greater certainty, the annual renewable energy portfolio standard of the City of Summerside electric utility shall be determined, for the purposes of clause (1)(a), by using the total number of megawatt hours of electric energy that the utility sells in a calendar year to customers in each service area of the utility referred to in paragraph (1)(aa)(ii)(A) and (B). 2004,c.16,s.1; 2006,c.38,s.1.
Administrative Responsibility	<b>2.</b> 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	<b>3.</b> (1) For the calendar year beginning on January 1, 2010 and for each calendar year thereafter, every public utility shall obtain at least 15 percent of the total amount of electric energy that it sells during that calendar year from renewable energy sources.
----------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

(2) Every public utility shall, for the year beginning on January 1, 2011 and for each year thereafter, submit to the Minister an annual report in a form and at a time required by the regulations, that sets out

Annual report

(a) the total amount, in megawatt hours, of the electric energy that the public utility sold in the preceding year; and

(b) the total amount, in megawatt hours, of the electric energy that the public utility obtained in the preceding year from a renewable energy source.

(3) The report submitted to the Minister under subsection (2) shall be signed and sworn by an officer or other person engaged in the management of the public utility at the time the report is submitted.

Signing annual report

(4) A public utility is not required to comply with subsection (1) in respect of any calendar year for which the public utility is exempted by the Minister under subsection (5).

Exception

(5) The Minister may, on application by a public utility, exempt the public utility from the requirements of subsection (1) for any one or more calendar years, as the Minister considers appropriate, if the Minister is satisfied that the public utility has entered into an agreement with one or more other public utilities that ensures that the average of the total amount of electric energy that the parties to the agreement have obtained or will obtain from renewable energy sources, during the calendar year or years for which the exemption is sought, is equal to or exceeds 15 percent of the total amount of electric energy that is or will be sold by the parties, during the calendar year or years for which the exemption is sought.

*Idem*

(6) The Lieutenant Governor in Council may direct the Commission to inquire into, and report on, any matter related to the compliance by a public utility with the requirements of this section.

Inquiry into compliance

(7) Subsections (7)-(9) not proclaimed. 2004,c.16,s.3.

Capability to supply electric energy from renewable energy sources

**4.** (1) Every public utility that fails to comply with subsection 3(1) or (7) is guilty of an offence and liable on summary conviction to a fine of not more than \$300,000.

Offence re minimum annual renewable energy portfolio percentage

(2) Every director or officer of a public utility who authorizes, permits or acquiesces in, the failure by a public utility to comply with subsection 3(1) or (7), whether or not a charge has been laid or a finding of guilt has been made against the public utility in respect of the failure, is guilty of an offence and liable on summary conviction to a fine of not more than \$100,000.

Directors and officers, offence

Payment of fine	<p>(3) Where a public utility pays all or part of a fine imposed under this section, the Commission shall, after receiving notice from the Minister of the imposition and payment of the fine, ensure that the fine is deducted from the amount which the public utility would otherwise be entitled to earn under the <i>Electric Power Act</i> as a just and reasonable return upon its undertaking. 2004,c.16,s.4.</p>
Offence for failure to submit annual return	<p><b>5.</b> Every public utility that is required by section 3 to submit an annual report and that fails to do so when and as required by that section is guilty of an offence and liable on summary conviction to a fine of \$500 for every day or part of a day that the failure continues. 2004,c.16,s.5.</p>
Demand side management plan for 2005 to 2010	<p><b>6. (1)</b> Every public utility shall, before September 1, 2006, prepare and submit to the Commission for its approval a plan of the demand side management measures that the public utility proposes to undertake during the period beginning on January 1, 2007 and ending on December 31, 2010 to ensure that the reduction in the intensity of peak demand by rate payers for electric energy from the public utility by the end of that period exceeds or is equal to the percentage reduction required to obtain the approval of the Commission under subsection (2).</p>
Approval of plan for 2005 to 2010	<p>(2) The Commission may, on receipt of a demand side management plan for the period referred to in subsection (1), approve the plan if the Commission is satisfied that, after the implementation of the measures set out in the plan, the intensity of the peak demand for electric energy from the public utility for the calendar year 2010 is likely to be at least 5% less than the intensity of the peak demand for electric energy from the public utility for the calendar year 2004.</p>
Demand side management plan for 2011 to 2015	<p>(3) Every public utility shall, before September 1, 2010, prepare and submit to the Commission for its approval a plan of the demand side management measures that the public utility proposes to undertake during the period beginning on January 1, 2011 and ending on December 31, 2015 to ensure that the reduction in the intensity of peak demand by rate payers for electric energy from the public utility by the end of that period exceeds or is equal to the percentage reduction required to obtain the approval of the Commission under subsection (4).</p>
Approval of plan for 2011 to 2015	<p>(4) The Commission may, on receipt of a demand side management plan for the period referred to in subsection (3), approve the plan if the Commission is satisfied that, after the implementation of the measures set out in the plan, the intensity of the peak demand for electric energy from the public utility for the calendar year 2015 is likely to be at least 10% less than the intensity of the peak demand for electric energy from the public utility for the calendar year 2004.</p>

(5) For the purposes of this section, the intensity of the peak demand of a public utility for a calendar year shall be determined in accordance with the rules or procedures established or approved by the Commission, which rules or procedures shall take into account the changes, during the calendar year, in the customer base of the public utility in terms of both the number and power rate classes of its customers.

Calculation of the intensity of peak demand

(6) Every public utility shall, within 3 months of the expiry of the period of an approved demand side management plan, prepare and submit to the Commission a report that contains the information on the implementation of the measures of the demand side management plan that is required by the Commission.

Report

(7) Where the Commission is not satisfied that a demand side management plan submitted for its approval by a public utility is likely to effect the percentage reduction in the intensity of peak demand for electric energy from the public utility required to obtain the approval of the Commission under subsection (2) or (4), as the case may be, the Commission may order the public utility

Order to vary plan or make new plan

(a) to vary the demand side management plan, or prepare another such plan, to address such matters as the Commission considers appropriate; and

(b) to resubmit the varied or new plan for the approval of the Commission.

(8) After the Commission has approved the demand side management plan of a public utility, the Commission may, during the period of the plan and on the application of the public utility, approve amendments to the plan, if the Commission is satisfied that the amendments are not likely to adversely affect the percentage reduction in the intensity of peak demand for electric energy achieved by the implementation of the plan.

Amendment of an approved plan

(9) Every public utility shall carry out the measures set out in an approved demand side management plan as and when required by the plan. 2004,c.16,s.6; 2006,c.38,s.2.

Compliance with measures in approved plan

## RENEWABLE ENERGY GENERATORS

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

Distribution prohibition

8. (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.

Minimum purchase price



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.81; 2006,c.38,s.4.
Development restrictions	<b>9.</b> (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.
Crown appropriation and reservation of environmental attributes	<b>10.</b> (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 <ul style="list-style-type: none"> <li>(a) any claim for compensation by the large capacity renewable energy generator; or</li> <li>(b) any encumbrance or other right of the large capacity renewable energy generator or of any other person.</li> </ul>
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.** (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.

Request for net-metering system agreement

(2) A request for a net-metering system agreement with a public utility shall be made by submitting to the public utility

*Idem*

(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).

(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.

Energy credits – alternative expiry date

(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.

*Idem*

(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

Inspection

(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.

(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). Termination

(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 Idem

- (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.

(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 Notice

- (a) sets out the reasons for the termination;
- (b) indicates the date of the termination; and
- (c) includes a copy of section 14.

(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. Date of termination

(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. Notice

**12.** (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. Operation of net-metering system under agreement

(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 Charges, restriction

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.

Installation of  
meters

**13.** (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.

(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. Credits

(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), Application

(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.

(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 Expiry

(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.** (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 Appeals

(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

- Service of documents **15.** (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.

(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. Service by registered mail

**16.** (1) Every public utility or renewable energy generator who Penalty  
 (a) contravenes or violates section 6, 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.

(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. Separate daily liability

(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. Application to Supreme Court

(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. Order

(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. Execution

**17.** Every penalty or fine imposed or collected under the provisions of this Act shall be submitted to the Provincial Treasurer and deposited into the Operating Fund. 2004,c.16,s.17. Operating Fund

**18.** The Lieutenant Governor in Council may make regulations Regulations  
 (a) prescribing a source of renewable energy for the purposes of subclause 1(u)(v);



- (b) respecting the form, and the time for the submission each year, of an annual report by a public utility under section 3;
- (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.

**19.** Sections 19 and 20 consequential amendments. 2004,c.16,s.19.