



# **BILL NO. 141**

*Government Bill*

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*2nd Session, 62nd General Assembly  
Nova Scotia  
64 Elizabeth II, 2015*

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## **An Act to Implement an Electricity Plan**

CHAPTER 31  
ACTS OF 2015

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR  
DECEMBER 18, 2015**

The Honourable Michel P. Samson  
*Minister of Energy*

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*Halifax, Nova Scotia  
Printed by Authority of the Speaker of the House of Assembly*

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## **An Act to Implement an Electricity Plan**

Be it enacted by the Governor and Assembly as follows:

**1** This Act may be cited as the *Electricity Plan Implementation (2015) Act*.

**2** In this Act,

(a) “Board” means the Nova Scotia Utility and Review Board;

(b) “Fuel Adjustment Mechanism” means the fuel adjustment mechanism approved by the Board for use by Nova Scotia Power in orders dated December 10, 2007, (Board Case Number M00496) and December 8, 2008, (Board Case Number M00010) and any associated tariff and plan for administering the mechanism that has been approved by the Board;

(c) “Nova Scotia Power” means Nova Scotia Power Incorporated;

(d) “Rate Stability Period” means the calendar years 2017, 2018 and 2019;

(e) “total fuel rate” means the portion of a customer’s electricity rate intended to recover the sum of the base cost of fuel and annual adjustments under the Fuel Adjustment Mechanism.

**3** Nova Scotia Power shall prepare a Fuel Stability Plan for the Rate Stability Period.

**4 (1)** The Fuel Stability Plan must include

(a) a forecast of Nova Scotia Power’s fuel and purchased power costs for a period ending no sooner than December 31, 2020;

(b) a proposed base cost of fuel under the Fuel Adjustment Mechanism for each calendar year during the Rate Stability Period;

(c) any proposed changes in the base cost of fuel through the Rate Stability Period;

(d) a description of any hedging strategies or mechanisms proposed to be used by Nova Scotia Power to manage fuel costs during the Rate Stability Period; and

(e) a forecast of the amounts to be recovered through Nova Scotia Power’s rates in respect of the anticipated assessment against it pursuant to Section 5E of the *Maritime Link Act*.

**(2)** The recovery of forecasted amounts in clause (1)(e) must be included in the base cost of fuel during the Rate Stability Period and is subject to subsection 6(2).

**(3)** Notwithstanding the recovery of forecasted amounts referred to in clause (1)(e) through the base cost of fuel, amounts in respect of the forecasted assessment may be allocated to Nova Scotia Power’s customers on any basis subject to the approval of the Board.

(4) Nova Scotia Power may include a proposal to phase in the recovery of the assessment through its rates for a period not exceeding five years.

(5) The phase-in may be accommodated by the early inclusion or deferral in rates of a portion of Nova Scotia Power's costs relating to the assessment or by a similar mechanism.

5 Nova Scotia Power shall apply to the Board for approval of the Fuel Stability Plan before the start of the Rate Stability Period or by such earlier date as may be prescribed by the regulations.

6 (1) The Board shall approve the Fuel Stability Plan, subject to any changes, terms or conditions or other requirements considered appropriate by the Board and, without limiting the generality of the foregoing, approve

(a) a base cost of fuel under the Fuel Adjustment Mechanism for each calendar year during the Rate Stability Period, including an amount for the recovery of the anticipated assessment against Nova Scotia Power pursuant to Section 5E of the *Maritime Link Act*; and

(b) the hedging strategies or mechanisms to be used by Nova Scotia Power to manage fuel costs during the Rate Stability Period.

(2) Any changes in the base cost of fuel through the Rate Stability Period must be applied in equal annual increments or decrements over the calendar years 2017, 2018 and 2019.

(3) Where Nova Scotia Power's application includes a phasing of the recovery of the assessment pursuant to Section 5E of the *Maritime Link Act* into its rates pursuant to subsection 4(4), the Board may approve a phase-in of the recovery of the assessment through Nova Scotia Power's rates for a period not exceeding five years.

(4) Notwithstanding the approval of any hedging strategy or mechanism to be used to manage fuel costs during the Rate Stability Period, Nova Scotia Power shall apply to the Board for the approval of revised hedging strategies or mechanisms in the event that a change in circumstances relating to fuel costs makes it no longer reasonable to adhere to the approved hedging strategy or mechanism.

7 Nova Scotia Power Incorporated shall comply with the approved Fuel Stability Plan.

8 (1) The base cost of fuel under the Fuel Adjustment Mechanism may not be reset during the Rate Stability Period but may change pursuant to clause 6(1)(a).

(2) The incentive component of the Fuel Adjustment Mechanism is suspended during the Rate Stability Period.

9 The base cost of fuel must be reset for 2020 and Nova Scotia Power shall apply to the Board for the approval of the reset base cost of fuel so that it may be in place on January 1, 2020.

10 Notwithstanding any requirement of the Fuel Adjustment Mechanism for annual adjustments, any adjustments implemented on January 1, 2017, must remain in place throughout

the Rate Stability Period and must be adjusted so that any intended recovery or reimbursement of costs is made over the course of the Rate Stability Period.

**11 (1)** Subject to Section 12, any variance in the actual recovery of the base cost of fuel and other costs approved for recovery through the Fuel Adjustment Mechanism from the approved forecasted recovery of those costs during the Rate Stability Period must be addressed through adjustments made pursuant to the Fuel Adjustment Mechanism to be implemented on January 1, 2020.

**(2)** Nova Scotia Power shall apply to the Board for the approval of these adjustments so that they may be implemented on January 1, 2020.

**12 (1)** The Board may approve adjustments made pursuant to the Fuel Adjustment Mechanism for implementation during the Rate Stability Period in respect of exceptional circumstances resulting in a variance in the actual recovery of the base cost of fuel and other costs approved for recovery through the Fuel Adjustment Mechanism from the approved forecasted recovery of those costs that the Board determines has caused or will cause substantial financial harm to Nova Scotia Power or its customers.

**(2)** The Board shall not make a determination pursuant to subsection (1) until it has held a hearing to determine whether exceptional circumstances exist as set out in that subsection.

**13** For greater certainty, nothing in Sections 3 to 12 restricts or suspends any reporting or auditing requirements of the Fuel Adjustment Mechanism, except that no hearing relating to an audit may occur during the Rate Stability Period other than for the purpose of setting the base cost of fuel for the calendar year 2020.

**14 (1)** Where Nova Scotia Power's regulated rate of return on equity exceeds the range approved by the Board for the calendar years 2015, 2016, 2017, 2018 and 2019, any amount that exceeds that range is deemed to be an overrecovery of fuel costs.

**(2)** Any excess earnings in respect of the calendar years 2015 and 2016 must be incorporated through the Rate Stability Period in the base cost of fuel that is approved pursuant to clause 6(1)(a).

**(3)** For greater certainty, annual adjustments pursuant to the Fuel Adjustment Mechanism may be made in 2016 in respect of the calendar year 2015 but, subject to Section 16, may not include any amounts relating to excess earnings.

**(4)** Any excess earnings during the Rate Stability Period must be addressed in the same manner as an overrecovery of fuel costs under Sections 11 and 12.

**(5)** To the extent that any past or future order of the Board is inconsistent with the treatment of excess earnings required by this Section, the order of the Board is of no force and effect in respect of the inconsistency.

**(6)** For greater certainty, nothing in this Section affects the operation of the *Public Utilities Act* or any order of the Board as they may apply in respect of earnings exceeding Nova

Scotia Power's approved regulated rate of return on equity in calendar years other than 2015, 2016, 2017, 2018 and 2019.

**15 (1)** The tax difference at any time before the coming into force of this Section up to December 31, 2019, arising from the inclusion of Nova Scotia Power's property and assets in the South Canoe Wind Project and the Sable Wind Project in its rate base pursuant to Sections 35B and 35D of the *Public Utilities Act* on a cash tax basis with deferred taxes offset to a regulatory asset or liability as appropriate compared to a deferred tax treatment is deemed to be a recovery of fuel costs and must be incorporated through the Rate Stability Period in the base cost of fuel that is approved pursuant to clause 6(1)(a).

**(2)** For greater certainty, the tax difference deemed to be a fuel cost pursuant to subsection (1) must not be incorporated into annual adjustments under the Fuel Adjustment Mechanism but must be accounted for in the base cost of fuel during the Rate Stability Period required to be proposed by Nova Scotia Power pursuant to clause 4(1)(b) and approved by the Board pursuant to clause 6(1)(a).

**16** Notwithstanding subsection 14(2) and Section 15, for annual adjustments pursuant to the Fuel Adjustment Mechanism implemented on or about January 1, 2016, in respect of the 2015 calendar year, an amount excluded from an annual adjustment pursuant to the Fuel Adjustment Mechanism as a result of the application of subsection 14(2) and Section 15 may be included in the annual adjustment for any rate class whose total fuel rate in 2016 would otherwise be higher than it was in 2015, but only to the extent of reducing the 2016 total fuel rate to equal the 2015 total fuel rate.

**17** Any amounts deemed to be a recovery of fuel costs pursuant to subsections 14(1) and 15(1) must be allocated to Nova Scotia Power's customers on the same basis that they would have been under Nova Scotia Power's approved cost of service methodologies if they had not been deemed to be fuel costs.

**18 (1)** Notwithstanding the *Public Utilities Act* but subject to subsection (3), the Board may not grant a change in Nova Scotia Power's general rates to take effect before January 1, 2020.

**(2)** Nova Scotia Power may, on or before April 30, 2016, file an application for a change in its general rates.

**(3)** On an application pursuant to subsection (2), the Board may grant a change in Nova Scotia Power's general rates to take effect during the Rate Stability Period.

**(4)** Where the Fuel Stability Plan is approved by the Board pursuant to Section 6, the base cost of fuel may not be reset on any application for a change in general rates pursuant to subsection (2).

**(5)** Nothing in subsection (1) affects the authority of the Board to order staged or multi-year changes in Nova Scotia Power's general rates during the Rate Stability Period in respect of an application made by Nova Scotia Power pursuant to subsection (2).

(6) Notwithstanding subsection (1), Nova Scotia Power may be granted a change in general rates during the Rate Stability Period if exceptional circumstances exist that have caused or will cause substantial financial harm to the ratepayers of the utility or to the utility, and Section 64A of the *Public Utilities Act* applies *mutatis mutandis*.

19 Nothing in Sections 3 to 18 is intended to affect the manner in which the Board may deal with rates under the following Nova Scotia Power tariffs:

- (a) One Part Distribution Voltage Real Time Pricing Tariff;
- (b) One Part High Voltage Real Time Pricing Tariff;
- (c) One Part Extra High Voltage Real Time Pricing Tariff;
- (d) Generation Replacement and Load Following Tariff;
- (e) Shore Power Tariff;
- (f) Wholesale Market Backup/Top-Up Service Tariff;
- (g) Wholesale Market Non-Dispatchable Supplier Spill Tariff;
- (h) Open Access Transmission Tariff;
- (i) Load Retention Tariff; and
- (j) any tariff established pursuant to Section 3G of the *Electricity Act*.

20 (1) Notwithstanding clause 79I(2)(a) of the *Public Utilities Act*, for the calendar year 2019, Nova Scotia Power shall enter into an agreement with the electricity efficiency and conservation franchise holder for the provision of electricity efficiency and conservation activities in an amount not greater than \$34,050,000.

(2) Sections 79J, 79L and 79M of the *Public Utilities Act* apply *mutatis mutandis* to the agreement referred to in subsection (1).

21 (1) The Governor in Council may make regulations

- (a) prescribing a date for the purpose of Section 5;
- (b) defining any word or expression used but not defined in this Act;
- (c) further defining any word or expression defined in this Act;
- (d) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(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*.

22 **Subsection 2(1) of Chapter 25 of the Acts of 2004, the *Electricity Act*, as amended by Chapter 14 of the Acts of 2010, Chapter 15 of the Acts of 2011 and Chapter 34 of the Acts of 2013, is further amended by adding immediately after clause (aaa) the following clause:**

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

**23 (1) Section 3A of Chapter 25, as enacted by Chapter 14 of the Acts of 2010, is amended by adding immediately after subsection (1) the following subsection:**

(1A) Notwithstanding subsection (1), Nova Scotia Power Incorporated shall develop and maintain a program that will permit any customer to generate electricity for the customer's own use and to sell any excess 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.

**(2) Subsection 3A(2) of Chapter 25, as enacted by Chapter 14 of the Acts of 2010, is amended by striking out "The program" in the first line and substituting "A program developed and maintained pursuant to subsection (1) or (1A)".**

**(3) Subsection 3A(3) of Chapter 25, as enacted by Chapter 14 of the Acts of 2010, is amended by adding "or (1A)" immediately after "(1)" in the second line.**

**(4) Subsection 3A(4) of Chapter 25 is repealed and the following subsections substituted:**

(4) A customer's generator for a program developed and maintained pursuant to subsection (1) or (1A) may not exceed

(a) a nameplate capacity of one megawatt; or

(b) in respect of a customer's generator first connected to the public utility's electrical grid on or after the date that this subsection comes into force, a nameplate capacity of one hundred kilowatts.

(5) A customer's generator first connected to the public utility's electrical grid on or after the date that this subsection comes into force must include such equipment as may be prescribed by the regulations to

(a) measure the amount of electricity produced by the generator and the time that it is supplied;

(b) measure the amount of electricity supplied to the customer by the public utility and the time that it is supplied;

(c) measure the amount of electricity supplied to the public utility by the customer and the time that it is supplied;

(d) adhere to such standards as may be prescribed by the regulations; and

(e) meet any other requirements that may be prescribed by the regulations.

(6) The cost of the equipment, but not the cost of installing the equipment, to provide the data required by clauses (5)(a) to (c) is the responsibility of the public utility for generators connected on or before December 31, 2019, and thereafter must be determined in the manner as such costs are treated when interconnecting other generators to the public utility's electrical grid.

(7) The public utility shall collect the data required by clauses (5)(a) to (c) and provide the Minister with information derived from the data at such times and in such form as the Minister may determine.

(8) The public utility shall develop a tariff for the electricity sold to it pursuant to this Section and apply to the Board for approval of the tariff to be implemented on such date as may be prescribed by the regulations.

(9) A rate in a tariff developed and approved pursuant to subsection (8) must be based on the net value of the electricity to the public utility's electrical system, and any other factors that may be prescribed by the regulations.

(10) Upon the implementation of the tariff developed and approved pursuant to subsection (8), excess electricity sold by a customer to the public utility pursuant to this Section must be sold at the rate established in the tariff approved pursuant to subsection (8) instead of the rate established by subsection (1) or (1A).

(11) Notwithstanding subsection (10) but subject to subsection (12), a customer of a public utility who is generating electricity at the customer's premises before the date that the tariff is approved pursuant to subsection (8) under a program developed and maintained pursuant to subsection (1) or (1A) must be permitted to sell electricity at the rate described in subsection (1) or (1A) until the later of the date that the tariff is approved pursuant to subsection (8) and twenty-five years from the date that the customer first interconnected a generator at that premises to the public utility's electrical grid under a program developed and maintained pursuant to (1) or (1A).

(12) Subsection (11) does not apply if the nameplate capacity of the customer's generator is increased after the date that the tariff is approved pursuant to subsection (8).

**24 Section 3C of Chapter 25, as enacted by Chapter 14 of the Acts of 2010, is amended by adding immediately after subsection (1) the following subsection:**

(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.

**25 Section 4A of Chapter 25, as enacted by Chapter 14 of the Acts of 2010, is amended by adding immediately after subsection (8) the following subsections:**

(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 Her 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.

**26 (1) Subsection 4B(1) of Chapter 25, as enacted by Chapter 14 of the Acts of 2010, is amended by**

**(a) striking out “or” at the end of clause (a);**

**(b) striking out the comma at the end of clause (b) and substituting a semicolon; and**

**(c) adding immediately after clause (b) the following clauses:**

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

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

**and**

**(d) striking out “a renewable electricity administrator” in the last two lines and substituting “the Procurement Administrator”.**

**(2) Subsection 4B(2) of Chapter 25, as enacted by Chapter 14 of the Acts of 2010, is amended by striking out “A renewable electricity administrator” in the first line and substituting “The Procurement Administrator”.**

**(3) Subsection 4B(3) of Chapter 25, as enacted by Chapter 14 of the Acts of 2010, is amended by striking out “a renewable electricity administrator” in the first line and substituting “the Procurement Administrator”.**

**(4) Subsection 4B(4) of Chapter 25, as enacted by Chapter 14 of the Acts of 2010, is amended by**

**(a) striking out “renewable electricity administrator” in the first and second lines of clause (a) and substituting “Procurement Administrator”; and**

**(b) striking out “renewable electricity administrator” in the second and third lines of clause (b) and substituting “Procurement Administrator”.**

**(5) Subsection 4B(7) of Chapter 25, as enacted by Chapter 14 of the Acts of 2010, is amended by**

**(a) striking out “a renewable electricity administrator” in the second and third lines and substituting “the Procurement Administrator”; and**

**(b) striking out “administrator” in the third line and substituting “Procurement Administrator”.**

**(6) Section 4B of Chapter 25, as enacted by Chapter 14 of the Acts of 2010, is amended by adding immediately after subsection (7) the following subsections:**

(7A) The Governor in Council may make regulations relating to the content and conduct of a request for proposals undertaken by the 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 the Procurement Administrator pursuant to clauses (1)(c) and (d).

**(7) Subsection 4B(8) of Chapter 25, as enacted by Chapter 14 of the Acts of 2010, is amended by striking out “a renewable electricity administrator” in the second line and substituting “the Procurement Administrator”.**

**(8) Subsections 4B(9) and (10) of Chapter 25 are repealed and the following subsections substituted:**

(9) A public utility shall procure all electricity under a contract awarded by the Procurement Administrator pursuant to a request for proposals authorized pursuant to this Section and the regulations.

(10) The 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).

**(9) Subsection 4B(11) of Chapter 25, as enacted by Chapter 14 of the Acts of 2010, is amended by adding “or a bidder” immediately after “utility” in the second line.**

**(10) Subsection 4B(12) of Chapter 25 is repealed and the following subsections substituted:**

(12) Where the Procurement Administrator has selected one or more bidders for the supply of electricity to a public utility, the public utility shall enter into the agreements necessary to evidence the procurement.

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

**(11) Subsection 4B(13) of Chapter 25, as enacted by Chapter 14 of the Acts of 2010, is amended by**

- (a) striking out “from its rate base” in the second line; and**
- (b) striking out “on the basis” in the third line and substituting “through its rates”.**

**(12) Section 4B of Chapter 25 is further amended by adding immediately after subsection (13) the following subsection:**

(14) The exercise by the Governor in Council of the authority contained in subsections (7A), (7B), (11) and (12A) is a regulation within the meaning of the *Regulations Act*.

**27 Section 4C of Chapter 25 is repealed and the following Sections substituted:**

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*.

4D (1) The Governor in Council may make regulations establishing programs for the interconnection of any plant or equipment to the electrical grid of a public utility for the purpose of research, development and testing relating to

- (a) energy storage; and
  - (b) electricity management, conservation or control systems.
- (2) The regulations under subsection (1) must include program limits based upon energy production capacity, total energy output or public utility ratepayer impacts.
- (3) 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 any 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 plant or equipment or any other party;
  - (f) enforcement measures and mechanisms;
  - (g) costs, fees and penalties;
  - (h) requirements or conditions in respect of any agreement between an approved program applicant and a public utility for the sale of electricity; and
  - (i) any other matter the Governor in Council considers necessary or advisable for the proper administration of the program.
- (4) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

4E (1) A public utility shall

- (a) permit any plant or equipment relating to a program established by Section 4D and the regulations to connect to its electrical grid in the manner provided by the regulations; and
  - (b) pay for any electricity supplied by the plant or equipment to the public utility's electrical grid at a rate equivalent to
    - (i) where the plant or equipment is integrated with the premises of a customer of the public utility, the rate paid by the customer for electricity supplied to the customer at the premises by the public utility, or
    - (ii) where the plant or equipment is not integrated with the premises of a customer, the rate paid by the majority of the public utility's residential customers for electricity supplied to those customers by the public utility.
- (2) Payments pursuant to subsection (1) must be made for such period as the plant or equipment remains interconnected to the public utility's electrical grid, but in no case longer than twenty-five years from the date that the plant or equipment was first interconnected to the electrical grid.
- (3) A public utility is entitled to recover amounts it is required to pay for electricity supplied to it pursuant to this Section through its rates approved by the Board under the *Public Utilities Act*.

**28 Subsection 5(1) of Chapter 25, as amended by Chapter 14 of the Acts of 2010, Chapter 15 of the Acts of 2011 and Chapter 34 of the Acts of 2013, is further amended by**

- (a) adding “, 3A(8)” immediately after “3(1)” in the first line of clause (a); and**
- (b) adding immediately after clause (du) the following clauses:**
  - (dv) prescribing equipment for the purpose of subsection 3A(5);
  - (dw) prescribing standards for the purpose of clause 3A(5)(d);

- (dx) prescribing additional requirements for the purpose of clause 3A(5)(e);
- (dy) prescribing additional factors for the purpose of subsection 3A(9);

**29 Chapter 380 of the Revised Statutes, 1989, the *Public Utilities Act*, is amended by adding immediately after Section 35A the following Sections:**

35B Notwithstanding Section 2A and subsection 4B(13) of the *Electricity Act* and clause 2(f) of this Act, any property and assets owned by Nova Scotia Power Incorporated that are part of the South Canoe Wind Project are deemed to be used and useful in Nova Scotia Power Incorporated providing a service to or for the public, and the Board shall include in its determination of Nova Scotia Power Incorporated's rate base and revenue requirement the capital and other costs in respect of such property and assets on the same basis as the capital and other costs relating to property and assets in other wind farms owned by Nova Scotia Power Incorporated and included in its rate base on a cash tax basis with deferred taxes offset to a regulatory asset or liability as appropriate.

35C (1) The order of the Board dated April 30, 2013, in proceedings bearing Board Case Number M05416 is deemed to be an approval pursuant to Section 35 for the construction of the property and assets owned by Nova Scotia Power Incorporated as part of the South Canoe Wind Project, except to the extent that it may be inconsistent with an express requirement of this Section or Section 35B.

(2) Notwithstanding subsection (1), Nova Scotia Power Incorporated may not, in respect of the amount of the original construction cost included in the order, seek approval from the Board, and the Board may not approve an Authorization to Overspend under Nova Scotia Power Incorporated's approved Capital Expenditure Justification Criteria.

35D Notwithstanding Section 2A and subsection 4B(13) of the *Electricity Act* and clause 2(f) of this Act, any property and assets owned by Nova Scotia Power Incorporated that are part of the Sable Wind Project are deemed to be used and useful in Nova Scotia Power Incorporated providing a service to or for the public, and the Board shall include in its determination of Nova Scotia Power Incorporated's rate base and revenue requirement the capital and other costs in respect of such property and assets on the same basis as the capital and other costs relating to property and assets in other wind farms owned by Nova Scotia Power Incorporated and included in its rate base on a cash tax basis with deferred taxes offset to a regulatory asset or liability as appropriate.

35E (1) The order of the Board dated September 22, 2014, in proceedings bearing Board Case Number M06083 is deemed to be an approval pursuant to Section 35 for the construction of the property and assets owned by Nova Scotia Power Incorporated as part of the Sable Wind Project, except to the extent that it may be inconsistent with an express requirement of this Section or Section 35D.

(2) Notwithstanding subsection (1), Nova Scotia Power Incorporated may not, in respect of the amount of the original construction cost included in the order, seek approval from the Board, and the Board may not approve an Authorization to Overspend under Nova Scotia Power Incorporated's approved Capital Expenditure Justification Criteria.

35F Sections 35B and 35D apply retroactively, as if the Board orders referred to in subsections 35C(1) and 35E(1) had been valid since they were issued by the Board, except to the extent that they may be inconsistent with an express requirement of Sections 35B to 35E.

**30 Chapter 380 is further amended by adding immediately after Section 51 the following Section:**

- 51A (1) The Governor in Council may make regulations
- (a) requiring a public utility to prepare and provide reports to the Minister of Energy and the Board, or either of them, including such content and in such form and manner as may be prescribed;
  - (b) with respect to the manner in which such reports or other information prescribed must be made available to the public by the Minister of Energy or the public utility.
- (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*.

**31 Chapter 380 is further amended by adding immediately after Section 52 the following Sections:**

- 52A (1) The Board shall establish performance standards for Nova Scotia Power Incorporated in respect of reliability and response to adverse weather conditions.
- (2) For the purpose of subsection (1), performance standards relating to reliability must be determined by the Board based upon
- (a) such North American electrical utility industry standards as it considers appropriate, modified, where necessary, to account for any circumstances or conditions existing in the Province; and
  - (b) any other factors or requirements prescribed by the regulations.
- (3) For the purpose of subsection (1), performance standards relating to responses to adverse weather conditions must be determined by the Board based upon
- (a) such standards as it considers appropriate in order to ensure that Nova Scotia Power Incorporated's response to adverse weather conditions is consistent with the standards of other electrical utilities operating along the North Atlantic seaboard having regard to the nature and severity of the adverse weather condition and the extent of the damage sustained; and
  - (b) any other factors or requirements prescribed by the regulations.
- 52B (1) The Board shall establish performance standards in respect of such areas of Nova Scotia Power Incorporated's customer service as it determines appropriate.

(2) For the purpose of subsection (1), performance standards relating to customer service must be established by the Board based upon

(a) information to be collected by the Board to determine a baseline in respect of the customer service provided by Nova Scotia Power Incorporated in the areas determined appropriate by the Board;

(b) the objective of gradually improving Nova Scotia Power Incorporated's performance in the areas of customer service determined appropriate by the Board; and

(c) any other factors or requirements prescribed by the regulations.

52C Whenever required in connection with any investigation by the Board or a person appointed pursuant to Section 82, Nova Scotia Power Incorporated shall provide the Board with such reports and information as the Board may require to show completely and in detail Nova Scotia Power Incorporated's conduct in relation to any performance standard established by the Board.

52D (1) The Board may require Nova Scotia Power Incorporated to provide it with periodic status reports, at such times and including such information as the Board may require, on Nova Scotia Power Incorporated's performance in respect of the standards established pursuant to Sections 52A and 52B.

(2) Within ninety days following the end of each calendar year, Nova Scotia Power Incorporated shall provide a written report to the Board on its performance in respect of the standards established pursuant to Sections 52A and 52B.

(3) The written report must be in such form and contain such information as the Board determines appropriate.

(4) Where, following receipt of the report referred to in subsection (2), the Board determines that Nova Scotia Power Incorporated has failed to achieve any performance standard established pursuant to Section 52A, the Board may order Nova Scotia Power Incorporated to pay an administrative penalty or to develop and file a plan for bringing itself into compliance with a performance standard, or both.

(5) Where, following receipt of the report referred to in subsection (2), the Board determines that Nova Scotia Power Incorporated has failed to achieve any performance standard established pursuant to Section 52B, the Board may order Nova Scotia Power Incorporated to pay an administrative penalty or to develop and file a plan for bringing itself into compliance with a performance standard, or both.

52E (1) In this Section, "Fuel Adjustment Mechanism" means the fuel adjustment mechanism approved by the Board for use by Nova Scotia Power Incorporated in orders dated December 10, 2007, (Board Case Number M00496) and December 8, 2008, (Board Case Number M00010) and any associated tariff and plan for administering the mechanism that has been approved by the Board

(2) The amount of any administrative penalty ordered to be paid is the amount determined by the Board to be appropriate in order to promote future compliance with the performance standards and not for punitive purposes or effects or for redressing a wrong done to society at large.

(3) The cumulative total of administrative penalties levied against Nova Scotia Power Incorporated in a calendar year must not exceed one million dollars.

(4) Any administrative penalties levied against Nova Scotia Power Incorporated must be credited to customers through Nova Scotia Power Incorporated's Fuel Adjustment Mechanism or, where no such mechanism exists, in any manner the Board determines appropriate.

(5) Notwithstanding subsection (4), any amounts to be credited to customers may be allocated amongst Nova Scotia Power Incorporated's customers in any manner that the Board determines appropriate.

(6) Any administrative penalties levied against Nova Scotia Power Incorporated may not be included when determining Nova Scotia Power Incorporated's rate of return pursuant to this Act.

52F (1) The Governor in Council may make regulations

(a) applying Sections 52A to 52E, or any of them, *mutatis mutandis* to any other public utility;

(b) prescribing factors or requirements for the purpose of clauses 52A(2)(b) and (3)(b) and 52B(2)(c).

(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*.

**32 Subsection 79M(6) of Chapter 380, as enacted by Chapter 5 of the Acts of 2014, is amended by adding "or the franchise holder" immediately after "Incorporated" in the second line.**

**33 Subsection 79Q(1) of Chapter 380, as enacted by Chapter 5 of the Acts of 2014, is amended by striking out "2024" in the last line and substituting "2025".**

**34 (1)** Section 32 has effect on and after May 1, 2014.

**(2)** Subsection 52D(5) of the *Public Utilities Act*, as enacted by Section 31 of this Act, comes into force on such day as the Governor in Council orders and declares by proclamation.

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