



BILL NO. 145

Government Bill

*1st Session, 64th General Assembly
Nova Scotia
71 Elizabeth II, 2022*

An Act to Amend Chapter 25 of the Acts of 2004, the Electricity Act

CHAPTER 12
ACTS OF 2022

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
APRIL 22, 2022**

The Honourable Tory Rushton
Minister of Natural Resources and Renewables

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

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**An Act to Amend Chapter 25
of the Acts of 2004,
the Electricity Act**

Be it enacted by the Governor and Assembly as follows:

1 (1) 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, Chapter 34 of the Acts of 2013 and Chapter 31 of the Acts of 2015, is further amended by

(a) striking out “Energy” in the first line of clause (aa) and substituting “Natural Resources and Renewables”; and

(b) adding immediately after clause (aab) the following clause:

(aac) “Procurement Administrator” means the Procurement Administrator appointed under subsection 4B(1);

(2) Section 2 of Chapter 25 is further amended by adding immediately after subsection (2) the following subsection:

(3) For greater certainty, the presence of generators or energy storage devices on customer premises does not constitute a “substantially different circumstance” for the purpose of Section 67 of the *Public Utilities Act*.

2 Chapter 25 is further amended by adding immediately after Section 2B the following Section:

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

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

3 (1) Section 3A of Chapter 25 is repealed and the following Section substituted:

3A (1) In this Section, “customer” means all metered accounts registered to the same person or entity under the same rate code in a distribution zone.

(2) A public utility may develop and maintain a program that permits any customer to generate electricity for the customer’s own use and to sell any excess electricity to the public utility at a rate equivalent to the rate paid by the customer for electricity supplied to the customer by the public utility.

(3) Notwithstanding subsection (2), Nova Scotia Power Incorporated shall develop and maintain a program that permits a customer to generate electricity for the customer’s own use and to sell electricity to Nova Scotia Power Incorporated at a rate equivalent to the rate paid by the customer for electricity supplied to the customer by Nova Scotia Power Incorporated.

- (4) A program developed under subsection (3) only applies
- (a) to a customer who wishes to install a generator with a nameplate capacity of more than twenty-seven kilowatts;
 - (b) if the generator and the customer's load are not connected to the same meter; or
 - (c) to other customer classes as prescribed by the regulations.
- (5) Only electricity generated by a customer that is renewable low-impact electricity qualifies for the program referred to in subsection (3).
- (6) Nova Scotia Power Incorporated may not compensate a customer for electricity generated in excess of that customer's consumption in a calendar year.
- (7) A program developed and maintained pursuant to subsection (2) or (3) must receive the approval of the Board before it is implemented by the public utility.
- (8) The public utility shall collect the data as prescribed by the regulations and provide the Minister with information derived from the data at such times and in such form as the Minister may determine.
- (9) The Governor in Council may make regulations respecting any aspect of a program developed or maintained under subsection (2) or (3) including
- (a) program requirements and conditions, including customer classes;
 - (b) participant eligibility requirements;
 - (c) the application process;
 - (d) duties of the public utility with respect to the program;
 - (e) project limitations, including limitations with respect to generator nameplate capacities;
 - (f) the identification of and conditions respecting equipment to be used to
 - (i) measure the amount of electricity produced by a generator and the time it is supplied,
 - (ii) measure the amount of electricity supplied to the customer by the public utility and the time it is supplied, and
 - (iii) measure the amount of electricity supplied to the public utility by the customer's generator and the time it is supplied;
 - (g) standards that must be adhered to;
 - (h) enforcement measures and mechanisms;
 - (i) costs, fees and penalties;

(j) obligations relating to data collection, reporting and the sharing of information;

(k) the sale of renewable low-impact electricity to the public utility;

(l) oversight of the program by the Board;

(m) requirements or conditions with respect to any agreement between a customer and the public utility;

(n) any other matter the Governor in Council considers necessary or advisable for the proper administration of the program.

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

(2) Section 3A as it read before this Section came into force applies to an agreement made pursuant to Section 3A before this Section came into force.

4 Chapter 25 is further amended by adding immediately after Section 3A the following Sections:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 Chapter 25 is further amended by adding immediately after proposed Section 3AD the following Sections:

3AE In Sections 3AF to 3AL,

(a) "community solar garden" means a facility that generates energy by means of a ground-mounted or roof-mounted solar photovoltaic device for the use of subscribers who receive a bill credit for the electricity generated in proportion to the size of their subscription;

(b) "community solar program" means a program established under Section 3AF that permits a customer, group of customers or third party to generate solar energy

- (i) for the customer's, group's or third party's use, and
- (ii) where there is an excess electricity generated, to sell the excess to Nova Scotia Power Incorporated at a rate prescribed by the regulations;

(c) “project owner” means the eligible entity or group of entities that own and operate a community solar garden and are responsible for enlisting subscribers;

(d) “subscriber” means an eligible retail customer of Nova Scotia Power Incorporated who owns one or more subscriptions of a community solar garden interconnected with that public utility;

(e) “subscription” means a contract between a subscriber and a project owner.

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

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

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

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

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

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

(2) Neither Nova Scotia Power Incorporated nor a municipal electric utility may be a subscriber or project owner.

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

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

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

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

3AJ Nova Scotia Power Incorporated shall perform hosting capacity analysis of each of its substations and feeders and shall make this information public to the extent possible.

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

- (a) establishing a community solar program cap and eligibility requirements for project owners;
- (b) program requirements and conditions;
- (c) project limitations, including establishing the maximum generator nameplate capacity for community solar gardens;
- (d) establishing an application window and application requirements, review dates and processes for project owners;
- (e) project owner and subscriber eligibility requirements;
- (f) requirements and conditions with respect to an agreement between a project owner and subscriber;
- (g) prescribing the form and content of a subscription agreement, including how fees are charged and calculated;
- (h) prescribing additional terms and conditions that may apply upon the issuance of a subscription agreement;
- (i) prescribing the form and content of and terms and conditions required in a power purchase agreement, including how fees are charged and calculated;
- (j) the sale of excess electricity from solar energy to Nova Scotia Power Incorporated, including setting a rate;
- (k) obligations relating to data collection, reporting and the sharing of information;
- (l) duties of the public utility with respect to the program;
- (m) the transfer of renewable energy certificates from Nova Scotia Power Incorporated to a subscriber or project owner;
- (n) costs and fees;
- (o) setting a date for a review of the community solar program;
- (p) prescribing anything that is to be prescribed pursuant to Sections 3AF to 3AJ;
- (q) any other matter the Governor in Council considers necessary or advisable for the proper administration of the program.

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

6 Chapter 25 is further amended by adding immediately after Section 4A the following Section:

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

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

(3) Subsection (2) applies only to a generation facility that is in operation when this Section comes into force and providing electricity to one or more customers, or for a proposed generation facility, if the generation facility was not previously issued a power purchase agreement under another program under this Act.

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

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

(6) The Minister shall ensure the terms and conditions contained in a purchase agreement between the public utility and a generation facility are in the best interests of the ratepayers.

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

(8) The Governor in Council may make regulations respecting any aspect of the purchase agreement between the public utility and the generation facility, including

(a) prescribing facilities or classes of facilities as generation facilities;

(b) the time frame for entering into a contract to purchase the generation output;

(c) setting a maximum price per kilowatt hour for the renewable low-impact electricity;

(d) the minimum term for a purchase agreement;

(e) any other matter the Governor in Council considers necessary or advisable for the proper administration of the program.

(9) The exercise by the Governor in Council of the authority contained in subsection (8) is a regulation within the meaning of the *Regulations Act*.

7 (1) Subsection 4B(1) of Chapter 25, as enacted by Chapter 14 of the Acts of 2010 and amended by Chapter 31 of the Acts of 2015 and Chapter 9 of the Acts of 2020, is further amended by

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

(b) striking out the comma at the end of clause (d) and substituting “; or”; and

(c) adding immediately after clause (d) the following clause:

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

(2) Section 4B of Chapter 25, as enacted by Chapter 14 of the Acts of 2010 and amended by Chapter 31 of the Acts of 2015 and Chapter 9 of the Acts of 2020, is further amended by adding immediately after subsection (1) the following subsections:

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

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

8 Chapter 25 of the Acts of 2004 is further amended by adding immediately after Section 4B the following Sections:

4BA (1) In this Section and Sections 4BB to 4BD,

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

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

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

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

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

(4) The Minister may, in writing,

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

(b) revoke or revise a delegation made under clause (a) at any time.

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

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

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

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

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

(u) any other matter the Governor in Council considers necessary or advisable for the proper administration of the Green Choice Program.

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

9 Chapter 25 is further amended by adding immediately after Section 4E the following Sections:

4F (1) In this Section,

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

(b) “energy” means electricity;

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

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

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

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

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

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

(a) the account holder; and

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

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

- (a) the previous twenty-four months; and
 - (b) the period of time within the previous twenty-four months during which the account holder had an account with Nova Scotia Power Incorporated.
- (8) Nova Scotia Power Incorporated shall ensure that the energy data made available pursuant to subsections (6) and (7) provides energy usage information for intervals of one hour or less, subject to any limitations of Nova Scotia Power Incorporated's metering infrastructure.
- (9) The Governor in Council may make regulations
- (a) governing the manner in which energy data must be made available by Nova Scotia Power Incorporated, including prescribing additional data to be released publicly and in what form and manner;
 - (b) requiring and governing reports and information that Nova Scotia Power Incorporated must provide to the Minister, the Board or other persons or entities, including prescribing the form and manner in which the reports or information must be provided;
 - (c) prescribing anything that is to be prescribed pursuant to this Section.
- (10) The exercise by the Governor in Council of the authority contained in subsection (9) is a regulation within the meaning of the *Regulations Act*.

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

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

(3) The Minister may revoke or revise a delegation made under subsection (1).

10 Subsection 5(1) of Chapter 25, as amended by Chapter 14 of the Acts of 2010, Chapter 15 of the Acts of 2011, Chapter 34 of the Acts of 2013, Chapter 31 of the Acts of 2015 and Chapter 9 of the Acts of 2020, is further amended by

- (a) striking out "3A(8)" in the first line of clause (a);
- (b) striking out the period at the end of clause (cc) and substituting a semicolon; and
- (c) striking out clauses (dv) to (dy).

11 Chapter 9 of the Acts of 2020, *An Act to Amend Chapter 25 of the Acts of 2004, the Electricity Act*, is repealed.

12 Chapter 10 of the Acts of 2021, *An Act to Amend Chapter 25 of the Acts of 2004, the Electricity Act*, is repealed.

13 Section 5 comes into force on such date as the Governor in Council orders and declares by proclamation.
