

**Solar Program Regulations - Draft for Consultation Only**  
**(Final form of Regulations may vary from Draft)**

**Amendment to the *Renewable Electricity Regulations***  
**made by the Governor in Council under subsections 4B(7A), (7B), (10A) and (12A) and**  
**Sections 4C and 5 of Chapter 25 of the Acts of 2004,**  
**the *Electricity Act***

- 1 Subsection 2(1) of the *Renewable Electricity Regulations*, N.S. Reg. 155/2010, made by the Governor in Council by Order in Council 2010-381 dated October 12, 2010, is amended by
  - (a) adding “former” immediately before “Town of Canso” in paragraph (i)(C) of the definition of “municipal electric utility”;
  - (b) repealing the definition of “renewable electricity administrator”; and
  - (c) adding the following definitions where they belong in alphabetical order:

“expected amounts to be paid”, in relation to a procurement, means the amounts that a public utility would be required to pay to the owner of the generation facility to purchase the procured electricity, net of any savings relating to costs that would have been incurred by the public utility to produce, transmit, deliver or furnish any electricity that would be displaced by the procured electricity;

“procurement administrator” means a person appointed under subsection 4B(1) of the Act to conduct a procurement of renewable low-impact electricity;

“solar program” means the Solar Electricity for Community Buildings Program established under Section 37A;
- 2 Subsection 3(1) of the regulations is amended by striking out “149(1)(1)” in subclause (i) of the definition of “not-for-profit body corporate” and substituting “149(1)(l)”.
- 3 Subsection 6(6) of the regulations is amended by adding “is” immediately after “the supply”.

- 4 Clause 13(1)(c) of the regulations is amended by striking out “is” immediately before “has increased”.
- 5 (1) Subsection 20(1) of the regulations is amended by
- (a) striking out “Stocks” and substituting “Stock Companies” in clause (d); and
  - (b) striking out “Stocks” and substituting “Stock Companies” in clause (e).
- (2) Clause 20(3)(f) of the regulations is amended by striking out “a NS” wherever it appears and substituting “an NS”.
- 6 Section 23 of the regulations is amended by striking out “for a” immediately before “feed-in”.
- 7 (1) Subsection 35(1) of the regulations is amended by adding “or agencies” immediately after “departments”.
- (2) Subsection 35(1) of the regulations is further amended by striking out “Service Nova Scotia and Municipal Relations” in clause (f) and substituting “Office of Service Nova Scotia”.
- 8 (1) Subsection 35B(1) of the regulations is amended by striking out “The primary basis” and substituting “Except as provided in subsection (4), the primary basis”.
- (2) Subsection 35B(2) of the regulations is amended by adding “, other than a bidder under the solar program,” immediately after “A bidder”.
- (3) Section 35B is further amended by adding the following subsection immediately after subsection (2):
- (2A)** A bidder under the solar program must include all of the following in their proposal:
- (a) independently reviewed or audited year-end financial statements for the bidder’s most recent fiscal year;
  - (b) the proposed nameplate capacity of the generation facility;
  - (c) the proposed location and orientation of solar panels;
  - (d) a solar site assessment;

- (e) a cash-flow management plan for a period of time ending no earlier than 5 years after the date the generation facility is expected to reach commercial operation;
  - (f) an estimate of the total cost to develop the generation facility that separately identifies the costs for significant components of the development, including costs for solar panels, inverters, the balance of system hardware, labour and permitting;
  - (g) an estimate of the annual operating and maintenance costs for the generation facility;
  - (h) an estimate of the total amount of indebtedness expected to be incurred to develop the generation facility, the average length of the term for repaying the indebtedness and the average interest rate;
  - (i) an estimate of the amount of any incentives or grants that the bidder expects to receive to develop the generation facility;
  - (j) any information the procurement administrator requires to assess whether the proposal meets the requirements of the Act and these regulations.
- (4) Subsection 35B(3) is amended by striking out “subsection (2)” and substituting “subsections (2) and (2A)”.
- (5) Section 35B of the regulations is further amended by adding the following subsections immediately after subsection (3):
- (4) The primary basis for evaluating bids under a request for proposals for the solar program is the price for the proposed electricity, and this requirement must be clearly indicated in any request for proposals.
  - (5) A procurement administrator must not award a contract to a bidder under a request for proposals for the solar program if the bid price is too high, taking into account the relative amounts of the bid prices received from all other bidders who responded to the request for proposals and any other factor the procurement administrator considers appropriate.
  - (6) Responses to a request for proposals for the solar program must be submitted to the Minister electronically through the Internet through an online application form established for the program.

9 The regulations are further amended by repealing Section 35C and substituting the following Section:

- 35C (1)** In evaluating proposals submitted under a request for proposals under Section 4B of the Act, the procurement administrator must
- (a) respond to any concerns or questions from bidders in a timely manner;
  - (b) undertake the evaluation required by subsection 4B(10) of the Act in a timely fashion; and
  - (c) provide the written decision required by subsection 4B(10) of the Act no later than 7 days after making the decision.
- (2)** The procurement administrator must exclude any proposal from further evaluation if the administrator is not satisfied of any of the following:
- (a) that the proposal is technically feasible;
  - (b) that the bidder has the financial capacity or support to construct and operate the proposed generation facility.

- 10 (1) Section 35D of the regulations is amended by
- (a) striking out “the renewable electricity administer” and substituting “a procurement administrator”;
  - (b) striking out “include” and substituting “includes”.
- (2) Section 35D of the regulations is further amended by
- (a) striking out the period at the end of clause (d) and substituting a semi-colon; and
  - (b) adding the following clauses immediately after clause (d):
    - (e) for any contract awarded to a bidder,
      - (i) the price for electricity under the contract,
      - (ii) the nameplate capacity of the generation facility under the contract, and

- (iii) the annual amount of electricity expected to be generated by the generation facility under the contract;
    - (f) if more than 1 contract is awarded in the procurement,
      - (i) the total, mean and median prices for electricity under all contracts,
      - (ii) the total, mean and median nameplate capacity of generating facilities under all contracts awarded, and
      - (iii) the total, mean and median amounts of electricity expected to be generated by the generation facilities under all contracts awarded;
    - (g) for a procurement under the solar program,
      - (i) the expected amounts to be paid by a public utility using the assumptions set out in subsection 37F(7), and
      - (ii) an assessment of any impacts on the expected amounts to be paid by NSPI because of the limits in subsection 37F(4);
    - (h) any issues or trends relating to the procurement process that the procurement administrator considers relevant.
- 11 (1) Subsection 37(1) of the regulations is amended by striking out “The renewable electricity administrator” and substituting “Except as provided in subsection (1A), a procurement administrator”.
- (2) Section 37 of the regulations is further amended by adding the following subsections immediately after subsection (1):
- (1A)** The Minister must, in consultation with NSPI, prepare a standard form power purchase agreement to be used for procuring renewable low-impact electricity from a generation facility connected to the electrical grid of a public utility under a program established under Section 4C of the Act and must have the form of power purchase agreement approved by the Board before any procurement.
- (1B)** For a procurement under the solar program, the standard form power purchase agreement must incorporate all of the following terms:
- (a) the generation facility must reach commercial operation no later

than 24 months after the date the agreement was awarded by the procurement administrator;

- (b) the term of the agreement must end 20 years after the date the generation facility reaches commercial operation, except that the agreement may give a party to it the right to terminate earlier if there is a default by the other party;
- (c) except as provided in clause (d), the price for electricity output from the generation facility at the delivery point must be as follows:
  - (i) for net output from the generation facility that is 110% or less of the amount of electricity proposed to be delivered, determined on a 3-year rolling average basis, the price bid in the response to the request for proposals,
  - (ii) for net output from the generating facility that is greater than 110% of the amount of electricity proposed to be delivered, determined on a 3-year rolling average basis, an amount in \$/MWh that is equal to the public utility's cost of generating or purchasing 1 more MWh of electrical energy from sources other than the generation facility as calculated by the public utility averaged over the 12-month period immediately preceding the relevant time;
- (d) for a generation facility that is conveyed to an entity that is not eligible to participate in a request for proposals under Section 37B, the price for electricity output from a generation facility at the delivery point must be as follows:
  - (i) for net output from the generation facility that is 110% or less of the amount of electricity proposed to be delivered, determined on a 3-year rolling average basis,
    - (A) 70% of the price bid in the response to the request for proposals if the change in ownership occurs earlier than 5 years after the date the generation facility reaches commercial operation, or
    - (B) 90% of the price bid in the response to the request for proposals if the change in ownership occurs 5 years or later after the date the generation facility reaches commercial operation,

- (ii) for net output from the generating facility that is greater than 110% of the amount of electricity proposed to be delivered, determined on 3-year rolling average basis, an amount in \$/MWh that is equal to the public utility's cost of generating or purchasing 1 more MWh of electrical energy from sources other than the generation facility as calculated by the public utility averaged over the 12-month period immediately preceding the relevant time;
  - (e) any benefits or credits relating to the reduction of greenhouse gasses or air emissions or to the generation of electricity from renewable resources must accrue to the owner of the generation facility;
  - (f) the owner of the generation facility must not be required to provide the public utility with any form of financial security for the performance of its obligations under the power purchase agreement;
  - (g) the requirements for generation facilities in subsection 37C(2).
- (3) Subsection 37(2) of the regulations is amended by
  - (a) striking out "intended"; and
  - (b) striking out "subsection (1)" and substituting "this Section".
- 12 The regulations are amended by adding the following centred heading and Sections immediately after Section 37:

### **Solar Electricity for Community Buildings Program**

#### **Solar Electricity for Community Buildings Program**

**37A** The Solar Electricity for Community Buildings Program is established, for the years 2017, 2018 and 2019, as a program under subsection 4C(1) of the Act to connect a renewable low-impact electricity generation facility to a public utility's electrical grid.

#### **Eligible respondents to requests for proposals under solar program**

**37B (1)** Any or all of the following categories of participants, as determined by the procurement administrator, may participate in a request for proposals undertaken by a procurement administrator for the procurement of renewable low-impact electricity under the solar program:

- (a) an NS Mi'kmaw band council, or a body corporate, partnership or other business association that is wholly owned by 1 or more band councils;
  - (b) a municipality, or a body corporate, partnership or other business association that is wholly owned by 1 or more municipalities;
  - (c) a university, or a body corporate, partnership or other business association that is wholly owned by a single university;
  - (d) a not-for profit body corporate, or a body corporate, partnership or other business association that is wholly owned by a single not-for profit body corporate.
- (2) In clause (1)(c), “university” includes the Nova Scotia Community College.

**Requirements for generation facilities**

- 37C (1)** A procurement administrator may not award a contract under the solar program if the proposed generation facility was subject to an agreement to connect it to a public utility’s electrical grid on the date the response to the request for proposals was submitted by the respondent.
- (2) A procurement administrator may not award a contract under the solar program unless the proposed generation facility meets all of the following requirements:
- (a) it will be owned by an entity that is eligible to participate in a request for proposals under Section 37B on the date that it reaches commercial operation;
  - (b) it will not exceed a total nameplate capacity of 50 kW;
  - (c) it is expected to produce at least 51% of its average annual renewable low-impact electricity from solar energy;
  - (d) it will be connected to the electrical grid of a public utility through 1 electric meter that records electricity sales and peak power at least 4 times per hour;
  - (e) it will be located on or wholly within 25 m of a building that satisfies all of the following conditions:
    - (i) it will be owned or leased, in whole or in part, by the owner



of the generation facility on the date that the generation facility reaches commercial operation;

- (ii) it is not associated with another generation facility procured under the solar program unless the contract for the development of the other generation facility has been terminated;
- (iii) it will be provided with electricity from a public utility through an electric meter on the date the generation facility reaches commercial operation;
- (iv) it will not be constructed or provided with electricity solely to qualify for the solar program;
- (vi) it will be located on the same property as the generation facility, or on an adjoining property that is owned by the owner of the generation facility on the date that the generation facility reaches commercial operation until the end of the contract.

**Condition regarding financing**

**37D** The principal amount of any financing provided to an owner for the construction or installation of a proposed generation facility to provide renewable low-impact electricity under the solar program by a person who is providing goods or services for the construction or installation must not, combined with the principal amount of any such financing provided by any other such person, be greater than 49% of the total cost of constructing and installing the facility.

**Condition regarding use of information**

**37E** The owner of a generation facility that provides renewable low-impact electricity under the solar program must agree in writing that the Minister may use the information described in and as permitted under subsection 37H(5) for any purpose, including the publication or other public release of the information, regardless of any proprietary interest or claim to confidentiality that the owner may have and without any compensation being paid to the owner for the use of the information.

**Program limits on expected amounts to be paid by public utility**

**37F (1)** In this Section,

“program year” means

- (i) 2017, for contracts awarded by the procurement

administrator under the solar program before August 1, 2017,

- (ii) 2018, for contracts awarded by the procurement administrator under the solar program after July 31, 2017 and before August 1, 2018,
- (iii) 2019, for contracts awarded by the procurement administrator under the solar program after July 31, 2018 and before August 1, 2019.

- (2) For contracts awarded under the solar program, the expected amounts to be paid by a public utility in 2019 must not exceed the amounts set out in the following table for the electrical utility:

<b>Municipal Electric Utility</b>	<b>Amount</b>
Electrical utility for the Town of Antigonish	\$12 000
Electrical utility for the Town of Berwick	\$4500
Electrical utility for the former Town of Canso	\$1000
Electrical utility for the Town of Lunenburg	\$5500
Electrical utility for the Town of Mahone Bay	\$2000
Electric Light Commissioners for Riverport, in the County of Lunenburg	\$1200

- (3) The total expected amounts to be paid by NSPI for all contracts awarded under the solar program for a program year must not exceed the amounts set out in the following table for that program year:

<b>Program Year</b>	<b>Amount</b>
2017	\$250 000
2018	\$350 000 plus any increases made under subsection (5) for the program year
2019	\$400 000 plus any increases made under subsection (5) for the program year

- (4) The total expected amounts to be paid by NSPI for each program year under subsection (3) are subject to the following additional limits:

- (a) no more than 30% of an amount set out in subsection (3) may be paid to 1 or more owners who fall into the same category of participant in a clause in subsection 37B(1);

- (b) no more than 50% of an amount set out in subsection (3) may be paid to 1 or more owners for generation facilities located in Halifax County;
  - (c) no more than 20% of an amount set out in subsection (3) may be paid to 1 or more owners for generation facilities located in the counties of Cape Breton, Inverness, Richmond and Victoria;
  - (d) no more than 20% of an amount set out in subsection (3) may be paid to 1 or more owners for generation facilities located in the counties of Antigonish, Colchester, Cumberland, Guysborough and Pictou;
  - (e) no more than 25% of an amount set out in subsection (3) may be paid to 1 or more owners for generation facilities located in the counties of Annapolis, Digby, Hants, Kings, Lunenburg, Queens, Shelburne and Yarmouth.
- (5) If the expected amounts to be paid by NSPI for a program year are less than the total amount set out in subsection (3), then an amount equal to the difference between those amounts must be added to the amount set out in subsection (3) as an increase in the total limit for the following program year.
- (6) In subsection (5), the net expected payments determined for NSPI for a program year must exclude expected payments under contracts awarded by the procurement administrator that have been terminated.
- (7) To determine whether an amount set out in subsection (2) or (3) would be exceeded, the procurement administrator must assume all of the following, despite information to the contrary in any response to a request for proposals:
- (a) that a generation facility awarded a contract under the solar program with a public utility other than NSPI will be in commercial operation for the entire year in 2019;
  - (b) that a generation facility awarded a contract under the solar program with NSPI will be in commercial operation for the entire year in the program year for the contract.

**Data collection, reporting and sharing**

- 37H (1)** An owner of a generation facility under the solar program must collect and provide the Minister with all of the following information:

- (a) the nameplate capacity of the generation facility;
  - (b) the cost of constructing the generation facility, or of any particular component or aspect of the generation facility.
- (2) On request, a public utility must provide the procurement administrator with all of the following:
- (a) the costs that would be incurred to produce, transmit, deliver or furnish any electricity that would be displaced by electricity purchased under the solar program to permit the procurement administrator to assess whether the awarding of a contract would result in the expected amounts to be paid by the public utility to exceed the program limits under Section 37F;
  - (b) notification in writing if a power purchase agreement between the public utility and an owner of a generation facility connected to its electrical grid under the solar program is terminated.
- (3) A public utility must provide the Minister with all of the following:
- (a) all electric meter data for each generation facility connected to its electrical grid under the solar program including
    - (i) the amount of electricity produced and sold for each generation facility, and
    - (ii) the time, date and amount of peak power for each generation facility;
  - (b) the price of all electricity sold by the owner of each generation facility to the public utility under the program;
  - (c) notification in writing if a power purchase agreement between the public utility and an owner of a generation facility connected to its electrical grid under the solar program is terminated.
- (4) The information required to be provided to the Minister under subsections (1) and (3) must be provided at the times and in the formats requested by the Minister.
- (5) Subject to subsection (6), the Minister may use the information included in a response to a request for proposal or required to be provided under subsections (1) and (3) for any purpose, including the publication or other

public release of the information.

(6) The Minister may not publish or publically release the information required under clauses 35B(2A)(a)(e), (h), and (i).

- 13 (1) Clause 47(1)(a) of the regulations is amended by striking out “or” immediately after “5”.
- (2) Clause 47(1)(b) of the regulations is amended by striking out “or” immediately after “5”.
- (3) Clause 47(1)(c) is amended by striking out “or 6A or 6” immediately after “5” and substituting “, 6 or 6A”.
- 14 The regulations are further amended by striking out “renewable electricity administrator” and substituting “procurement administrator” wherever it appears.

DRAFT  
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