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2nd SESSION, 62nd GENERAL ASSEMBLY  
Province of Prince Edward Island  
53 ELIZABETH II, 2004

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**CHAPTER 16**

(Bill No. 11)

**Renewable Energy Act**

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Honourable James W. Ballem  
Minister of Environment, Energy and Forestry

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GOVERNMENT BILL

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BERYL BUJOSEVICH  
Queen's Printer  
Charlottetown, Prince Edward Island



## CHAPTER 16

### Renewable Energy Act

(Assented to December 16, 2004)

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

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

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

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

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

#### 1. (1) In this Act

(a) “bill reading period” means, in respect of a public utility, the period of time at the end of which the public utility regularly reads the meter of a customer to determine the amount of electric energy that has been furnished to the customer during that period;

Definitions

bill reading period

(b) “biofuel” means any liquid or gaseous fuel that is derived from either

biofuel

(i) organic material, or

(ii) a metabolic byproduct of organic material;

(c) “Commission” means the Island Regulatory and Appeals Commission established under section 2 of the *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11;

Commission

(d) “demand side management plan” means a plan referred to in section 6;

demand side  
management plan

(e) “environmental attributes” means environmental premiums or tradable credits that are recognized in Canada or elsewhere as being derived from the generation of an amount of electric energy from a renewable energy source;

environmental  
attributes

large capacity renewable energy generator	(f) “large capacity renewable energy generator” means a person, other than a public utility or a municipal renewable energy generator, that owns or operates a renewable energy generation facility with a name plate capacity equal to or greater than 1 megawatt;
kW	(g) “kW” means kilowatt;
maximum rated electric output	(h) “maximum rated electric output” means, in respect of an electric generator, the maximum rated electric output of the electric generator, as determined by its manufacturer;
medium capacity renewable energy generator	(i) “medium capacity renewable energy generator” means a person, other than a public utility or a municipal renewable energy generator, that owns or operates a renewable energy generation facility with a name plate capacity of greater than 100 kilowatts and less than 1 megawatt;
MW	(j) “MW” means megawatt;
Minister	(k) “Minister” means the Minister of Environment, Energy and Forestry;
municipal renewable energy generator	(l) “municipal renewable energy generator” means a municipality or a municipal corporation, other than the City of Summerside electric utility, that owns or operates a renewable energy generation facility of any name plate capacity;
name plate capacity	(m) “name plate capacity” means, in respect of a renewable energy generation facility, the sum of the maximum rated electric output of each electric generator of the renewable energy generation facility;
net-metering agreement	(n) “net-metering system agreement” means an agreement entered into by a public utility and a small capacity renewable energy generator under section 11;
net-metering system	(o) “net-metering system” means a system that operates in parallel with the electrical distribution facilities of a public utility and that measures, by means of one or more meters, the amount of electric energy that is supplied <ul style="list-style-type: none"> <li>(i) by the public utility to a small capacity renewable energy generator, and</li> <li>(ii) by the small capacity renewable energy generator to the public utility;</li> </ul>
organic material	(p) “organic material” means organic material from recently living plants or animals that is harvested, collected or used for the purpose of producing energy, and includes <ul style="list-style-type: none"> <li>(i) biofuel,</li> <li>(ii) effluent, and</li> </ul>

- (iii) organic material obtained from municipal waste or garbage;
- (q) “Operating Fund” means the Operating Fund as defined in the *Financial Administration Act* R.S.P.E.I. 1988, Cap. F-9; Operating Fund
- (r) “person” includes an individual, partnership, corporation, municipality, municipal corporation and cooperative association; person
- (s) “power rate class” means, in respect of a public utility, a rate class of the public utility that has been approved by the Commission under the *Electric Power Act* R.S.P.E.I. 1988, Cap. E-4; power rate class
- (t) “public utility” means a public utility that is authorized to furnish service under the *Electric Power Act*; public utility
- (u) “renewable energy source” means any source of renewable energy from which electric energy may be generated and includes renewable energy source
- (i) the sun,
  - (ii) the wind,
  - (iii) flowing water,
  - (iv) organic material, and
  - (v) such other sources as are prescribed by the regulations;
- (v) “renewable energy generator” means, unless the context indicates otherwise, a renewable energy generator
- (i) large capacity renewable energy generator,
  - (ii) medium capacity renewable energy generator,
  - (iii) municipal renewable energy generator, and
  - (iv) small capacity renewable energy generator;
- (w) “renewable energy generation facility” means a facility for generating electric energy from any renewable energy source, and includes any structures, ancillary equipment or other things used for that purpose; renewable energy generation facility
- (x) “service” means service as defined in the *Electric Power Act*; service
- (y) “service area” means service area
- (i) in respect of Maritime Electric Company, Limited, the area of the province in which it is authorized under the *Electric Power Act* to furnish service to customers,
  - (ii) in respect of the City of Summerside electric utility,
    - (A) the area of the province inside the municipal boundaries of the City of Summerside in which it furnishes electric energy to customers, and
    - (B) the area of the province outside the municipal boundaries of the City of Summerside in which it is authorized under the *Electric Power Act* to furnish service to customers, and

(iii) in respect of any other public utility authorized to furnish service under the *Electric Power Act*, the area of the province in which the public utility is authorized to furnish service;

small capacity  
renewable energy  
generator

(z) “small capacity renewable energy generator” means a person, other than a public utility, that owns or operates a renewable energy generation facility with a name plate capacity equal to or less than 100 kilowatt hours.

Electric energy  
obtained from a  
renewable energy  
source

(2) For the purposes of this Act, a public utility obtains electric energy from a renewable energy source, or from renewable energy sources, if the public utility obtains the electric energy from

- (a) a renewable energy generator;
- (b) a renewable energy generation facility that is owned or operated by the public utility; or
- (c) any combination of the generators and facilities referred to in clauses (a) and (b).

Renewable energy  
generator furnishing  
service

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

Summerside electric  
utility,  
determination of  
sales

(4) For greater certainty, the annual renewable energy portfolio standard of the City of Summerside electric utility shall be determined, for the purposes of clause (1)(a), by using the total number of megawatt hours of electric energy that the utility sells in a calendar year to customers in each service area of the utility referred to in paragraph (1)(aa)(ii)(A) and (B).

Administrative  
Responsibility

**2.** The Minister is responsible for the administration of this Act.

## PUBLIC UTILITIES

Required  
percentage of  
electric energy from  
renewable energy  
sources

**3.** (1) For the calendar year beginning on January 1, 2010 and for each calendar year thereafter, every public utility shall obtain at least 15 percent of the total amount of electric energy that it sells during that calendar year from renewable energy sources.

Annual report

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

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

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

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

Signing annual report

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

Exception

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

*Idem*

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

Inquiry into compliance

(7) For the calendar year beginning on January 1, 2015 and for each calendar year thereafter, every public utility shall ensure that it has the capability, as determined under subsection (8), to obtain an amount of electric energy from renewable energy sources that is equal to 100 percent of the amount of electric energy that it sells during that calendar year.

Capability to supply electric energy from renewable energy sources

(8) For the purposes of subsection (7), the amount of electric energy that a public utility has the capability to obtain from renewable energy sources in a calendar year shall be determined by the addition of

Determining capability of public utility

(a) the total amount of electric energy that the public utility has a right to obtain during the calendar year pursuant to

- (i) supply contracts with renewable energy generators other than small capacity renewable energy generators,
- (ii) supply contracts with extra-provincial suppliers who obtain the electric energy from renewable energy sources, and
- (iii) net-metering system agreements with small capacity renewable energy generators; and

(b) the total name plate capacity of the renewable energy generation facilities owned or operated by the public utility during the calendar year.

Annual report

(9) Every public utility shall, for the year beginning on January 1, 2015 and for each year thereafter, include in the annual report submitted to the Minister under subsection (2) such information as the Minister may require respecting

(a) the contracts or net-metering system agreements referred to in subsection (8); and

(b) the name plate capacity of each renewable energy generation facility owned or operated by the public utility.

Offence re  
minimum annual  
renewable energy  
portfolio percentage

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

Directors and  
officers, offence

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

Payment of fine

(3) Where a public utility pays all or part of a fine imposed under this section, the Commission shall, after receiving notice from the Minister of the imposition and payment of the fine, ensure that the fine is deducted from the amount which the public utility would otherwise be entitled to earn under the *Electric Power Act* as a just and reasonable return upon its undertaking.

Offence for failure  
to submit annual  
return

5. Every public utility that is required by section 3 to submit an annual report and that fails to do so when and as required by that section is guilty of an offence and liable on summary conviction to a fine of \$500 for every day or part of a day that the failure continues.

Demand side  
management plan  
for 2005 to 2010

6. (1) Every public utility shall, before September 1, 2005, prepare and submit to the Commission for its approval a plan of the demand side management measures that the public utility proposes to undertake during the period beginning on January 1, 2006 and ending on December 31, 2010 to ensure that the reduction in the intensity of peak demand by rate payers for electric energy from the public utility by the end of that period exceeds or is equal to the percentage reduction required to obtain the approval of the Commission under subsection (2).

Approval of plan  
for 2005 to 2010

(2) The Commission may, on receipt of a demand side management plan for the period referred to in subsection (1), approve the plan if the

Commission is satisfied that, after the implementation of the measures set out in the plan, the intensity of the peak demand for electric energy from the public utility for the calendar year 2010 is likely to be at least 5% less than the intensity of the peak demand for electric energy from the public utility for the calendar year 2004.

(3) Every public utility shall, before September 1, 2010, prepare and submit to the Commission for its approval a plan of the demand side management measures that the public utility proposes to undertake during the period beginning on January 1, 2011 and ending on December 31, 2015 to ensure that the reduction in the intensity of peak demand by rate payers for electric energy from the public utility by the end of that period exceeds or is equal to the percentage reduction required to obtain the approval of the Commission under subsection (4).

Demand side  
management plan  
for 2011 to 2015

(4) The Commission may, on receipt of a demand side management plan for the period referred to in subsection (3), approve the plan if the Commission is satisfied that, after the implementation of the measures set out in the plan, the intensity of the peak demand for electric energy from the public utility for the calendar year 2015 is likely to be at least 10% less than the intensity of the peak demand for electric energy from the public utility for the calendar year 2004.

Approval of plan  
for 2011 to 2015

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

Calculation of the  
intensity of peak  
demand

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

Report

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

Order to vary plan  
or make new plan

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

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

Amendment of an approved plan

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

Compliance with measures in approved plan

(9) Every public utility shall carry out the measures set out in an approved demand side management plan as and when required by the plan.

RENEWABLE ENERGY GENERATORS

Distribution prohibition

7. (1) No renewable energy generator shall supply electric energy to any person unless the person is a public utility.

Exception

(2) Subsection (1) does not prohibit any person who is a small capacity renewable energy generator from supplying electric energy to himself or herself.

Minimum purchase price

8. Every public utility that purchases electric energy from (a) a municipal renewable energy generator; (b) a medium capacity renewable energy generator; or (c) a large capacity renewable energy generator, shall pay at least the prescribed minimum rate or price for the electric energy.

Development restrictions

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

Paramountcy

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

Offence

(3) Every person who contravenes a provision of a regulation made under this section is guilty of an offence and liable on summary conviction to a fine of not more than \$50,000.

Crown appropriation and reservation of environmental attributes

10. (1) Any environmental attributes that are earned by a large capacity renewable energy generator from the generation of electric power are appropriated and reserved to Her Majesty in right of the province, and shall be held by Her Majesty free and clear of

- (a) any claim for compensation by the large capacity renewable energy generator; or
- (b) any encumbrance or other right of the large capacity renewable energy generator or of any other person.

Order

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

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

Offence

(4) Where a large capacity renewable energy generator contravenes an order of the Minister under subsection (2) for more than one day, the large capacity renewable energy generator is guilty of a separate offence for each day that the contravention continues.

Continuing offence

#### NET-METERING SYSTEM AGREEMENTS WITH SMALL CAPACITY RENEWABLE ENERGY GENERATORS

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

Request for net-metering system agreement

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

*Idem*

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

(3) Within 30 days of receiving a request made by a small capacity renewable energy generator in accordance with subsection (2), a public utility shall inspect the interconnection equipment and the renewable energy generation facility of the small capacity renewable energy

Inspection

generator to determine if the proposed operation of a net-metering system with the small capacity renewable energy generator is likely to have a serious adverse impact on

- (a) the service provided by the public utility to its other customers;
- (b) the poles, lines, equipment or plant of the public utility; or
- (c) the ability of the public utility to otherwise operate and maintain its business and electrical system in a manner consistent with
  - (i) the *Electric Power Act*,
  - (ii) the *Electrical Inspection Act* R.S.P.E.I. 1988, E-3, or the regulations made under that Act, or
  - (iii) any current standard published by the Institute of Electrical and Electronics Engineers Inc. that is not inconsistent with any provision of one of the Acts or regulations referred to in subclauses (i) and (ii).

*Idem*

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

Inspection reveals likely adverse impact

(5) If a public utility determines, after an inspection under subsection (3), that the proposed operation of a net-metering system with the small capacity renewable energy generator will likely have a serious adverse impact of a type described in subsection (3), the public utility shall, within 30 days of the date of the inspection,

- (a) refuse to enter into a net-metering system agreement with the small capacity renewable energy generator; and
- (b) serve the small capacity renewable energy generator with
  - (i) a written notice of its decision setting out the reasons for the refusal, and
  - (ii) a copy of section 14.

Requirement to enter into net-metering system agreement

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

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

(7) Where a public utility is required to enter into a net-metering system agreement under subsection (6), the public utility shall

Signing agreement  
and return of a copy

- (a) sign the copies of the net-metering system agreement submitted by the applicant; and
- (b) return a copy of the signed net-metering system agreement to the applicant.

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

Termination

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

*Idem*

(10) A public utility that is a party to a net-metering system agreement may terminate the agreement only if

*Idem*

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

(11) A public utility that wishes to terminate a net-metering system agreement under subsection (10) shall serve a written notice on the small capacity renewable energy generator that is a party to the agreement that

Notice

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

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

Date of termination

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

Notice

**12.** (1) A public utility shall, after entering into a net-metering system agreement with a small renewable energy generator, permit the small renewable energy generator to operate a net-metering system in parallel

Operation of net-metering system under agreement

with the public utility's electric system in accordance with the terms and conditions of this Act, the regulations and the net-metering system agreement.

Charges, restriction	(2) Under a net-metering system agreement with a small capacity renewable energy generator, a public utility shall not charge the small capacity renewable energy generator any fee or charge that is not charged or imposed on, or that differs in amount from any such fee or charge that is imposed on, any other customer of the public utility who is in the same power rate class as the small capacity renewable energy generator.
Installation of meters	<b>13.</b> (1) Within 30 days after entering into a net-metering system agreement with a small renewable energy generator, a public utility shall install, at a location agreeable to both parties, such meters, and undertake such other actions, as are necessary to establish a net-metering system with the small renewable energy generator.
Inspection, access	(2) After a public utility has installed a net-metering system for a small renewable energy generator, the small renewable energy generator shall allow, during normal business hours, the employees or agents of the public utility to have access to the net-metering system for the purposes of <ul style="list-style-type: none"> <li>(a) testing or inspecting the net-metering system; and</li> <li>(b) reading the meters of the net-metering system.</li> </ul>
Ownership of meters	(3) For greater certainty, the meters installed by a public utility pursuant to subsection (2) remain the property of the public utility.
Reading meters	(4) A public utility that installs a net-metering system with a small capacity renewable energy generator shall, at the end of each bill reading period of the public utility, <ul style="list-style-type: none"> <li>(a) simultaneously read the meters of the system to determine the amounts of electric energy that have been produced and consumed during the bill reading period by the small capacity renewable energy generator;</li> <li>(b) calculate, in accordance with the rates, tolls and charges of the public utility approved under the <i>Electric Power Act</i>, the total amount due to or from the small capacity renewable energy generator; and</li> <li>(c) give to the small capacity renewable energy generator a notice that advises the small capacity renewable energy generator of             <ul style="list-style-type: none"> <li>(i) the amounts of electric energy that the small capacity renewable energy generator produced and consumed during the bill reading period, and</li> <li>(ii) the total amount, if any, that the small capacity renewable energy generator</li> </ul> </li> </ul>

(A) is obliged to pay to the public utility, or  
 (B) is entitled to receive from the public utility as a credit,  
 under subsection (5).

(5) Amounts calculated under subsection (4) that are due as credits from a public utility to a small capacity renewable energy generator shall, subject to subsection (6),

- (a) be credited by the public utility to the account of the small capacity renewable energy generator; and
- (b) be applied by the public utility, in accordance with rules or procedures approved by the Commission, to any fee, charge or amount due to the public utility from the small capacity renewable energy generator.

(6) Where an amount is credited to the account of a small capacity renewable energy generator in respect of a bill reading period of a public utility in a calendar year, the amount of the credit expires on March 31 of the following calendar year if the amount credited cannot, before that date, be applied under subsection (5) against a fee, charge or amount due from the small capacity renewable energy generator to the public utility.

**14. (1) Where**

(a) the request of a small capacity renewable energy generator for a net-metering system agreement is refused by a public utility; or  
 (b) a public utility terminates a net-metering system agreement with a small capacity renewable energy generator,  
 the small capacity renewable energy generator may, within 30 days from the date of the service of the notice of refusal or termination from the public utility, appeal the refusal or termination to the Commission.

(2) An appeal to the Commission shall be commenced by serving a written notice of appeal on

- (a) the Commission; and
- (b) the public utility.

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

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

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

- Grounds of appeal in notice (6) No grounds of appeal shall be considered by the Commission other than the grounds of appeal set out in the notice of appeal.
- Decisions (7) The Commission may, after hearing an appeal,  
 (a) affirm the decision of the public utility to  
 (i) refuse to enter into a net-metering system agreement, or  
 (ii) terminate such an agreement; or  
 (b) order the public utility to enter into a net-metering system agreement with the applicant, that is subject to or includes such conditions, if any, specified in the order as the Commission considers appropriate.

#### GENERAL

- Service of documents **15.** (1) A notice that is required to be served under this Act is sufficiently served if it is  
 (a) delivered personally to the person who is entitled to receive the notice; or  
 (b) sent by registered mail addressed to the person who is entitled to receive the notice,  
 (i) where the person is a small capacity renewable energy generator, at the address last provided by the person in a request for a net-metering system agreement or in a notice of appeal, as the case may be,  
 (ii) where the person is a public utility, at the latest address appearing on the records of the Commission, or  
 (iii) where the person is the Commission, at the address of its office.
- Service by registered mail (2) Where any notice mentioned in subsection (1) is served by registered mail, the service shall be deemed to be made on the third day after the date of mailing.
- Penalty **16.** (1) Every public utility or renewable energy generator who  
 (a) contravenes or violates section 6, 7 or 8 of this Act; or  
 (b) fails, neglects, omits or refuses to do any Act or thing required of that public utility or renewable energy generator by any order of the Commission made under this Act,  
 is liable to a penalty imposed by order of the Commission of not more than \$10,000.
- Separate daily liability (2) Each day during which a prohibited activity subject to a penalty under subsection (1) continues gives rise to a separate liability to a penalty imposed by order of the Commission not exceeding \$500 for each day.

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

Application to  
Supreme Court

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

Order

(5) On any judgment entered under this section, execution may be issued as on any other final judgment of the Supreme Court.

Execution

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

Operating Fund

**18.** The Lieutenant Governor in Council may make regulations

Regulations

- (a) prescribing a source of renewable energy for the purposes of subclause 1(x)(v);
- (b) respecting the form, and the time for the submission each year, of an annual report by a public utility under section 3;
- (c) respecting the minimum rate or price at which a public utility is required to purchase electric energy under section 8;
- (d) respecting the form and conditions of a net-metering system agreement;
- (e) defining any word or expression used in this Act that is not defined in this Act; and
- (f) generally for carrying out any of the purposes or provisions of this Act.

#### CONSEQUENTIAL AMENDMENTS

**19. (1) The *Electric Power Act* is amended as provided for in this section.**

**(2) Section 1 of the Act is amended**

**(a) by renumbering it as subsection 1(1);**

**(b) by the addition of the following after clause (1)(f):**

- renewable energy generator
- (f.1) “renewable energy generator” means a renewable energy generator as defined under the *Renewable Energy Act* R.S.P.E.I. 1988, Cap. R-12.1;
- (c) in clause (1)(g),**
- (i) by the deletion of the period following subclause (ii) and the substitution of a comma, and**
- (ii) by the addition of the following after subclause (ii):**  
 “but does not include the distribution or furnishing of electric energy by a renewable energy generator to a public utility.”; **and**
- (d) by the addition of the following after subsection (1):**
- Renewable energy generator not public utility
- (2) A person who
- (a) is a renewable energy generator;
- (b) furnishes electric energy to another person who is
- (i) a public utility, or
- (ii) a customer in another province; and
- (c) does not furnish electric energy to any other person,
- is deemed, for the purpose of this Act, not to be a public utility, unless the person holds a permit.
- (3) Section 24 of the Act is amended**
- (a) by renumbering it as subsection 24(1); and**
- (b) by the addition of the following:**
- Allowance of expenditures required under *Renewable Energy Act*
- (2) The Commission shall allow a public utility to recover, in addition to the return the public utility is entitled to earn annually under subsection (1), any expenditures that the Commission is satisfied were reasonably and prudently incurred by the public utility for the purposes of complying with requirements of the *Renewable Energy Act*.
- 20. (1) *The Island Regulatory and Appeals Commission Act* is amended as provided for in this section.**
- (2) Section 1 of the Act is amended by the addition of the following:**
- renewable energy generator
- (d.1) “renewable energy generator” means a renewable energy generator as defined under the *Renewable Energy Act* R.S.P.E.I. 1988, Cap. R-12.1;
- (3) Section 6 of the Act is amended**
- (a) by renumbering it as subsection 6(1); and**

**(b) by the addition of the following:**

(2) The Commission may not under subsection (1), or under section 15, levy or issue an assessment on a renewable energy generator.

Levies respecting  
renewable energy  
generators

**21. This Act comes into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council.**

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**CHAPTER 16**

**(Bill No. 11)**

**Renewable Energy Act**

<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	November 23, 2004
<i>2nd Reading:</i>	Nov. 24,30; Dec. 2, 9/04
<i>To Committee:</i>	Nov. 24,25,26, 30; Dec.2, 9/04
<i>Reported:</i>	Nov. 24, 25, 26; Dec. 9/04
<i>3rd Reading and Pass:</i>	December 15, 2004
<i>Assent:</i>	December 16, 2004

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Honourable James W. Ballem  
Minister of Environment, Energy and Forestry

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GOVERNMENT BILL