



phone: 519-973-1116

fax: 519-973-8360

CITIZENS ENVIRONMENT ALLIANCE
of southwestern Ontario

Mr. Trevor Day

Clerk, Standing Committee on General Government

Via Fax: 416-325-3505

RE: Bill 150, *The Green Energy and Green Economy Act, 2009*

The Citizens Environment Alliance (CEA) commends the Government of Ontario for the introduction of the Green Energy and Green Economy Act as well as their swift action in taking this through the legislative processes.

We share the concerns of Ontarians regarding future energy policy and the desire to phase out nuclear energy as soon as is practical. In our view, if the GEA legislation passes and is accompanied by regulations and directions that fully implement its potential, any case for nuclear energy and fossil fuels will steadily decline.

We would also like to recommend a few amendments in order to improve the success of the Act. The CEA is a member of the Green Energy Act Alliance and as such offers the following recommendations to improve the Act:

1. Ensure ongoing priority for conservation and renewables in planning, regulation, procurement and operation.

While the preamble of Schedule A (the Green Energy Act) recites the government's commitment to promoting and expanding conservation and renewables, it falls short of ensuring that government agencies including the OPA, IESO and OEB will give these options the priority intended. There is considerable inertia that must be overcome.

Of particular concern is the failure of the Bill to ensure the pursuit of all cost-effective conservation in the various fuel sectors. In the case of electricity, most conservation costs less than 3 cents/kWh whereas new supply exceeds 10 cents. Conservation is the first choice for bill reduction, economic stimulation, environmental sustainability and energy security. It is vital that the regulatory and planning entities receive the clearest direction on this point. Renewable generation must then be the first priority after conservation.

A more explicit statement of, and requirement to reinforce, the government's priorities for planning, development and operation of the energy infrastructure of Ontario would assist in this regard. We suggest that the various schedules be amended as follows:

Schedule C (Ministry of Energy Act), Objectives of the Ministry, section 6(1)(h), be changed to note priority for items ii (renewables), iii (research and development) and iv (conservation),

This can be accomplished by splitting and reordering section 6(1)(h) into two subsections (*new text in italics*):

6(1)(h) 1. *ensure that the following objectives are pursued as priorities in the planning, development, procurement, and operation of energy services in Ontario and* do any one or more of encouraging, promoting, developing or participating in such activities, projects and programs as the Minister considers appropriate:

(i) to stimulate *all cost-effective* energy conservation, through the establishment of programs and policies within the Ministry or such agencies as may be prescribed, load management and the use of renewable energy sources throughout Ontario,

(ii) to increase the availability of renewable energy in Ontario and to increase the use of renewable energy sources in Ontario,

(iii) *to increase the availability of combined heat and power generating facilities in Ontario,*

(iv) to stimulate the search for and development of sources of energy, including those that utilize waste *and waste energy* and those that are renewable, as alternatives to the sources of energy available for use in Ontario,

6(1)(h) 2. do any one or more of encouraging, promoting, developing or participating in such activities, projects and programs as the Minister considers appropriate,

(i) to encourage prudence in the use of energy in Ontario,

(ii) to stimulate the planning and increase the development of infrastructure in Ontario, and

(iii) to support planning for growth and building strong communities in Ontario.

The prioritization included in 6(1)(h) should be reflected in the Electricity Act, and the OEB Act to ensure respect for these priorities in the regulatory, planning and operations functions that these agencies perform. Specifically:

Schedule D (OEB ACT)

In section 1 of the schedule, where new paragraphs 3, 4 and 5 are added to the Board's objectives in respect of electricity regulation, a sixth item should be added:

6. To promote the priorities set out in Section 6(1)(h) of the Ministry of Energy Act.

Similarly, in section 2, where a new paragraph 5 is added to the Board's objectives for gas regulation, a sixth paragraph should be added:

6. To promote the priorities set out in Section 6(1)(h) of the Ministry of Energy Act.

Schedule B (Electricity Act)

A new section should be added as follows:

In planning, procurement, regulation and operation of Ontario's electricity system the OPA and the IESO shall adopt the priorities set out in Section 6(1)(h) of the Ministry of Energy Act.

2. Require feed-in Tariffs (FITs) as the *primary* procurement mechanism for renewables and refine the characteristics of FITs and Directives in that regard.

The Bill as drafted enables but does not require a feed-in tariff approach for the procurement of renewables. Well-designed FITs have been found to be the most efficient and cost-effective method to procure renewable energy.

The design of FITs is a complex matter best left in large part to regulation and directive mechanisms, but the choice to favour FITs should be entrenched in legislation to ensure its long-term availability.

Regard to resource intensity should be a necessary aspect of FIT development to ensure that FITs are cost effective and applicable to a broad range of communities.

We recommend that Schedule B, section 7 adding 25.35 (1) be changed to read "*shall*" rather than "*may*" and that the section apply to "*green energies*" which should be defined to include both renewables and high efficiency combined heat and power (see discussion of CHP, below):

"The Minister *shall* direct the OPA to *develop FITs that are designed to ensure they will be the primary mechanism for procuring green energies*. The Minister, in directing the OPA to develop FITs, may specify such circumstances and timelines as the Minister shall require."

Similarly, in 25.35 (2) (b) the Minister's issuance of directives to guide the FIT approach should be mandatory -- "*may*" should be changed to "*shall*".

Section 25.35 (3) defining 'feed-in tariff program' should list "*natural resource intensity*" as a permissible basis of differentiation (in addition to energy source or fuel type, generating capacity etc.).

This will ensure that FITs do not overpay or underpay for projects and will allow a higher attainment of generating capacity per dollar spent.

3. Facilitate the development and enable the procurement of Combined Heat and Power (CHP) generation.

Apart from enabling investment in CHP by LDCs, the Bill is silent on this matter. CHP, if defined to include only highly efficient generation, offers the potential for vastly more efficient use of the gas resource, for dispersed development that will require less transmission and the potential to support greater penetration of intermittent renewables.

To accomplish this we recommend that the various sections enabling feed-in tariffs, the obligation to connect and streamlined approvals be expanded to include CHP.

One manner in which this could be accomplished is illustrated above where we suggest that FITs be utilized for "green energies" which should be defined to include high efficiency CHP. Alternatively, the various sections could be repeated and altered to address high efficiency CHP.

High Efficiency Combined Heat and Power should be added to the definition section in the GEA (section 1(1)). It should adopt the language in Schedule D, section 11 and in addition require that the facility achieve a minimum average efficiency of 6000 Btu/kWh (the federally mandated level for class 43.1 capital cost allowance).

4. Ensure that connection charges shall be shallow, and that deep connection and enabler line costs are spread to all customers.

The costs of connecting renewable energy generation to the grid (apart from the "shallow" connection costs that are in the control of and should be borne by the project developer) are being incurred to benefit society as a whole.

Accordingly, it is not appropriate to visit these costs on the particular generator or a particular distributor's customers.

Schedule D, section 15 proposes a regulation making authority to determine when generation connection costs are to be borne by a distributor or transmitter rather than by a generator. Schedule D, section 14, adds a new section 79.1 that would allow regulations to spread such costs out to "all customers" in the case of connection costs incurred by a distributor.

These sections should be amended to clarify that "all customers" is not limited to customers of that distributor, and to make the mechanism mandatory for all connection

costs and enabler line costs beyond on-site ('shallow') connection costs for renewable generation.

5. Facilitate Community-based development.

The Minister's power to direct the architecture of FITs in Schedule B, section 7, which adds 25.35 (2) Subparagraphs (a) and (b) referring to aboriginal and local community development and establishment of renewables, should also refer to "ownership" and therefore read:

"in the development, *ownership* and establishment..."

This will ensure the Minister has the authority to direct the OPA to encourage community investment.

In Schedule C, section 6 (1), where the objectives of the Ministry are set out, item (h)(vii) should be amended to read: "to support planning *by government and communities* for growth and building strong communities in Ontario" to recognize the dual level of planning that needs to be supported.

The list of objectives should be expanded to explicitly include:

"(viii) *to support community-owned renewable energy and conservation projects.*"

The regulation-making authority should specify that regulations may designate an officer, committee or agency as responsible for determining which projects qualify as 'community-owned renewable and conservation projects'. Selection of the appropriate authority and guidelines for the determination should be developed through a consultation process with organizations that represent the sector.

In several places the Bill empowers local communities, municipalities and distribution utilities to develop projects. These sections should be clarified to extend to First Nations. Specifically, Schedule B, section 5 creating subsection (4.5) should specify that it applies to facilities or systems both on and off of lawfully designated reserve and unceded reserve lands. Section 13 providing a definition for "municipal electric utility" should be extended to include First Nations utilities. Similarly, "municipal services corporation" defined in Schedule B, section 15(3) should include a First Nation Corporation incorporated under the laws of Ontario or Canada.

6. Clarify that large centralized non-renewable generating stations require IPSP approval.

In Schedule B, section 5.(2), the current draft of the Bill allows the Minister to direct the OPA to procure electricity supply or capacity that could include large non-renewable generation despite it not being part of an approved IPSP.

While the ability to direct procurement of conservation, renewables and decentralized CHP is in keeping with the policy intent of the Green Energy Act, the potential to avoid OEB scrutiny of major generation station procurement would defeat the legislative scheme that requires the OPA to periodically prepare an integrated plan and have it publicly reviewed by the OEB.

The proposed Electricity Act section (4.1)(a) should read:

*"the procurement of electricity supply or capacity **limited to** supply and capacity derived from renewable energy sources or high efficiency combined heat and power."*

7. Ensure that all electricity costs are captured in the Time of Use pricing system.

The existing legislative regime does not ensure that the increasing portion of electricity-related payments that are related to the global adjustment are subject to time-of-use pricing.

Relevant sections of the Electricity Act and the Ontario Energy Board Act should be amended to ensure that the OEB will and the government may, via regulation, require such a payment structure.

8. Support the expanded role of the environmental commissioner.

Schedule D section 6 adds section 26 (2) which defines "special purposes" for which the OEB shall assess costs to be included in rates.

A new section 26.2(2)7. should be added as follows:

"To fund the activities of the Environmental Commissioners Office under section 58 (1) 2 of Environmental Bill Of Rights, 1993, as amended." This will cause these costs to appear in rates rather than taxes and will help ensure that the Commissioner has the resources required to do a thorough job.

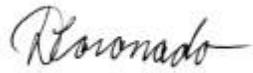
9. Amend the Condominium Act and the legislative mandate of municipalities to facilitate investment in conservation and renewables.

Toronto Atmospheric Fund and the City of Toronto are investigating the possibility of creating a mechanism to enable condominium developers and condominium corporations to invest in renewable power facilities and to enable innovative approaches to municipal financing and cost recovery for conservation investments made by property owners. We support these objectives and would support changes to the GEA to facilitate such a proposal.

Conclusion

The CEA appreciates the opportunity to submit comments to the committee.

Sincerely,

A handwritten signature in cursive script that reads "Derek Coronado".

Derek Coronado

Coordinator, Citizens Environment Alliance of Southwestern Ontario