



May 15, 2009

Ontario quickly passes *Green Energy Act* with some interesting revisions

Ontario's *Green Energy and Green Economy Act, 2009* passed Third Reading on May 14th, just 80 days after it was first tabled in the Legislature. We expect the regulations, policies and Ministerial Directives, which are necessary to implement a number of the legislative provisions, will be unveiled soon. For a full, clause-by-clause summary of the original Bill 150, please click here

http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=2145&detailPage=bills_detail_the_b

The government has opted for “mandatory home efficiency disclosure” instead of mandatory home energy audits for those attempting to sell or lease prescribed properties. A purchaser of residential property will now have the right to obtain “such information, reports or ratings as are prescribed, relating to energy consumption and efficiency” before the seller can accept their offer. The purchaser may, in writing, waive this right.

In response to concerns raised by opponents of wind generation facilities, the Act now requires that it “be administered in a manner that promotes community consultation”.

The Ontario Energy Board (OEB) is directed “to promote electricity conservation and demand management in a manner consistent with the policies of the Government of Ontario, including having regard to the consumer’s economic circumstances”. This should mandate the creation of a low income energy rate assistance program.

The final version of the Bill contained a number of additional amendments.

- ◆ The inspection, enforcement and penalty provisions have all been excised from the Act. And the provisions covering the confidentiality of information supplied by a proponent to the Renewable Energy Facilitation Office have been completely rewritten.
- ◆ Renewable energy testing facilities and testing projects have been exempted from zoning and other local controls so that proponents won’t be delayed in collecting the background or baseline data needed to assess a project’s viability and support an application.



- ◆ The only acceptable grounds on which a person can challenge the approval of a renewable energy project (under s.142(1) of the *Environmental Protection Act*) are that the project will cause either “serious harm to human health, or serious and irreversible harm to plant life, animal life or the natural environment.” The onus of proof lies with the person who requests the hearing.
- ◆ The OEB’s objectives are also amended to include the promotion of the conservation of electricity and demand management, the facilitation of investments to implement a smart grid, and the promotion of the use and generation of electricity from renewable energy sources.
- ◆ To facilitate the preparation of an annual report on the status of various energy efficiency and conservation activities, the Environmental Commissioner has been empowered to compel the OEB, OPA, generators, transmitters or distributors, and other prescribed persons to prepare and submit “a report containing such information as is specified by the Commissioner”.
- ◆ The *Building Code Act, 1992* has been amended to clarify that standards for both energy and water conservation may be established, and that any energy conservation standards be reviewed every five years.
- ◆ Bill 150 exempted renewable energy generation facilities and projects from a number of instruments under the *Planning Act*. That list has been amended to include policy statements and provincial plans (with certain exceptions), official plans, demolition control by-laws, zoning by-laws and orders under Part V (with a transitional exception for existing agreements), development permit regulations and by-laws, by-laws under ss.113 or 114 of the *City of Toronto Act, 2006*, and orders under s.17 of the *Ontario Planning and Development Act, 1994*. Planning, siting and buffer zones can now be dealt with through regulations under the *Green Energy Act*.

The *Green Energy Act* permits the Minister of Energy and Infrastructure to direct the Ontario Power Authority (OPA) to develop a feed-in tariff (FIT) program for the procurement of green energy capacity. Amendments to Bill 150 require the Minister to include directions on domestic content of the FIT program.

The OPA is currently consulting on a draft proposed feed-in tariff program that would encourage the development of renewable energy options. These rules would replace the current Renewable Energy Supply III RFP process for procuring green energy capacity in Ontario. The proposed FIT program would set a long term, guaranteed price for electricity generated from renewable sources, including on-shore and off-shore wind, hydroelectric, biogas, biomass and landfill gas, from 10.3 to 19 cents per kilowatt hour. The proposed tariffs for electricity from ground mounted and rooftop solar units would range from 44.3 to 80.2¢ per kWh depending on the capacity of the facility. The program would provide opportunities for promoting First Nations, Métis and community-based projects. More information on the OPA’s FIT program is available on-line at www.powerauthority.on.ca/FIT/



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