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Competition Act [Letter to Hon. Brenda Elliott,  
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L'ASSOCIATION CANADIENNE DU DROIT DE L'ENVIRONNEMENT

August 19, 1998

Hon. Brenda Elliott, Chair  
Standing Committee on Resources Developm  
Room 1405, Whitney Block  
Queen's Park  
Toronto, Ontario  
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VIA FAX 416-325-3505

**RE: Bill 35, Energy Competition Act**

The Canadian Environmental Law Association (CELA) is a non-profit public interest organization and legal clinic within the Ontario Legal Aid clinic system. CELA has a mandate to represent low income citizens and groups and to promote law reform and public education about environmental matters. CELA has been involved in matters of energy policy and law since the organization was founded in 1970. CELA is also a founding member of the Campaign for Nuclear Phase-out; a coalition made up of over 200 citizens organizations from across Canada.

As input to your deliberations on Bill 35, we wish to go on record as being in support of the overall thrust of the submission made to your committee by our colleagues from Nuclear Awareness Project.

First, we strongly support the call for a permanent shutdown of the accident-prone and extravagantly expensive Pickering A and Bruce A nuclear stations.

**Permanent Shut-down of Pickering A and Bruce A Nuclear Stations**

Ontario Hydro's nuclear power program is the source of numerous environmental and economic problems in Ontario's electricity sector. A permanent shutdown of these two stations is essential to resolving these problems and in successfully achieving the electricity competition objectives of Bill 35 and a sustainable energy future for Ontario. Ontario Hydro (which is, by its own admission, technically bankrupt) wants to spend \$22 billion over the next decade on a so-called "nuclear recovery plan". This enormous waste of money should not be tolerated. Ontario already has enough experience with such extravagance at Ontario Hydro. Multi-year and multi-billion dollar cost overruns on plants that rarely work adequately have been typical. There is no guarantee that this "recovery plan" will not similarly run billions of dollars over budget (indeed, cost overruns probably *are* guaranteed) and add to Ontario Hydro's already staggeringly high \$50 billion debt and liabilities giving the utility the dubious distinction of being the world's

largest nonsovereign debtor.

This massive investment in nuclear power has meant that Ontario Hydro continues to refuse to invest in cleaner energy sources. Instead, we have the worst case scenario of more billions down the drain towards unsafe, unreliable nuclear power (that generates wastes that are toxic for thousands of years and for which there is no safe disposal solution) and the interim “solution” of increased coal-fired electricity generation contributing to life-threatening smog and increasing greenhouse gas emissions when such emissions should be cut drastically for the sake of long term planetary health and indeed, survival.

### **Effectively Subsidizing Nuclear and Coal-Fired Plants Via Excessive Stranded Debt Will Undermine the Objective of a Competitive Energy Market in Ontario**

We strongly urge you and your Committee members to amend Bill 35 such that energy competition in Ontario is achieved through the first logical step of permanently shutting down the Pickering A and Bruce A stations. This initial step towards the phase-out of nuclear power in Ontario will stop the haemorrhage of money into Ontario Hydro’s debt and will assist with the long term success of the objectives of Bill 35. Further, we urge you and your Committee to ensure that the amount of Ontario Hydro’s Stranded Debt is minimized by ensuring that the successor companies established by Bill 35 carry as much of the debt and liabilities as possible. It is a contradiction of the title and intent of Bill 35 for the bill to effectively subsidize the new generating company’s nuclear and coal generating stations (by unevenly relieving them of Ontario Hydro’s debt) under the guise of creating a competitive energy sector in Ontario.

### **Support for Energy Conservation and Renewable Energy**

Regardless of the relatively limited objective of market competitiveness, for Ontario to move towards a sustainable energy future, the energy system in Ontario must include dramatic increases in conservation, efficiency and renewable supplies. In addition to beginning the process of removing Ontario’s nuclear albatross, Bill 35 could be significantly improved to improve the prospects of achieving a sustainable energy future. In particular, we wish to support the recommendations of Nuclear Awareness Project concerning the need for a Renewable Portfolio Standard (RPS). Successfully in place in other jurisdictions, RPSs are mandatory renewable energy quotas placed on all electricity producers.

In addition, we also support the recommendation to amend Bill 35 to provide for a “System Benefits Charge” (SBC) that would provide funding for conservation, efficiency and renewable energy research and development through a special charge on electricity. Such a program is also successfully in place in other jurisdictions and should be accompanied by amendments to Bill 35 that would write a conservation mandate into the objects of the Financial, Generating and

Services Corporations to be established by the bill. Present and future citizens of Ontario will surely be more interested in paying extra electricity charges to achieve such sustainable energy results rather than forever paying off the nuclear debt. The likelihood of being able to afford a sustainable energy future depends equally upon a policy shift towards conservation and renewables and the nuclear phase-out proposal above (and consequent avoidance of ever-increasing nuclear power-induced debt charges). Numerous environmental benefits also follow from such a policy shift.

### **Emissions Trading Must be Accompanied by Caps on Fossil Emissions**

The Bill 35 mechanism for establishing an emissions trading mechanism must be accompanied by a comprehensive framework of mandatory caps on emissions from the electricity sector including separate limits on sulphur dioxide and nitrogen oxides. Caps are also essential for greenhouse gases. The serious environmental, human health and economic impacts of smog and climate change continue to worsen. To confront these problems Ontario needs emission caps on these pollutants at levels far below current regulatory limits for acid gas emissions or voluntary commitments for greenhouse gas emissions. Mandatory and environmentally rigorous caps on these emissions are essential if an emissions trading scheme is to have any environmental benefit. Further, other fossil fuel emissions must be regulated including caps on emissions of mercury, cadmium, arsenic, hexavalent chromium, nickel, lead, fluorides and particulates.

### **Adequate Regulation of Nuclear Pollution and Real Money for Decommissioning**

Ontario has an opportunity under Bill 35 of correcting the error of the previous government and responsibly regulating tritium emissions from nuclear reactors. The current standard of 7000 becquerels per litre (Bq/L) is 70 times higher than the interim standard of 100 Bq/L recommended by the Advisory Committee on Environmental Standards to be followed by a further lowering to 20 Bq/L. Tritium is a carcinogenic and radioactive form of hydrogen and solid scientific evidence is available to justify an immediate and progressive lowering of this standard to protect public health and the environment.

From the time uranium is taken from the ground, toxic and carcinogenic emissions are the result. Regulation of additional nuclear contaminants is long overdue in Ontario and emission caps are necessary for other radionuclides such as Carbon-14 (from nuclear stations), uranium (from processing and fuel fabrication plants) and radium and radon from uranium tailings).

Finally, we wish to strongly endorse the recommendation made by Nuclear Awareness Project and other colleagues of the need to create a decommissioning and radioactive waste management fund. Ontario Hydro has bungled this aspect of financial management as badly as the rest of its nuclear program. Despite years of effort and enormous cost, Canada is no closer to solving the

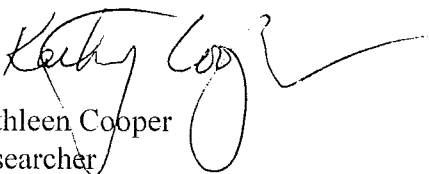
problem of nuclear waste disposal.

The intractable problem of nuclear waste is yet another powerful argument in favour of immediate efforts to systematically and permanently phase-out this dangerous industry. Bill 35 can assist in this regard by requiring the establishment of a real (as opposed to Ontario Hydro's imaginary accounting games) and segregated fund, under control that is independent of Ontario Hydro or its successor companies. Like the existing debt, such decommissioning and waste management liabilities must not be sequestered into Stranded Debt but must be acknowledged as a part of the cost of nuclear-generated electricity and paid for through current rates.

All of which is respectfully submitted.

Yours truly,

**CANADIAN ENVIRONMENTAL LAW ASSOCIATION**

  
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