

Proposed Amendments to Bill 100: *The Electricity Restructuring Act*, 2004

The Pembina Institute
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The following proposed amendments flow from the Pembina Institute's submission to the Standing Committee on Social Policy, regarding Bill 100, made on August 12, 2004.

Schedule A

S.1 Purposes

Add new clause: K) "To protect public safety and the environment, and promote economic and environmental sustainability in the generation, transmission and distribution of electricity"

Add new clause: L) "To ensure the access of low-income consumers to the electricity supply and conservation programs,"

Combine clauses b), and d) into "To promote, in order of priority, energy conservation and efficiency and load management, the use of renewable energy sources, and the use of clean energy sources, in a manner consistent with the policies of the government of Ontario."

s. 2 Definitions

Need a definition of "cleaner energy sources." Clean energy sources should be defined as environmental performance, on a life-cycle basis, equivalent to a combined cycle natural gas facility. This could be done via regulation

Perhaps remove references to "alternative energy sources." Have 2 categories for new supply: "renewable" and "clean." Hierarchy would be: efficiency/conservation; renewable sources; clean sources.

s.4 IESO mandate

s.4(1) add h) "to operate the IESO controlled grid and administered markets in a manner that ensures the protection of the environment and public safety."

Part II.1 OPA

25.2 (c) amend to read: "engaging in activities in support of the goal of ensuring an adequate, reliable, environmentally and economically sustainable, safe and secure electricity supply and resources in Ontario."

25.2.(e) amend to read: “to engage in activities to support the goals of, in order of priority, energy conservation and efficiency and load management, the use of renewable energy sources, and the use of clean energy sources, in a manner consistent with the policies of the government of Ontario.” (also incorporates f).

25.28 (1) – Integrated Power Plan

... Submit to the board an integrated power plan

- a) That is designed to ensure the adequacy and reliability of electricity supply through, in order of priority, energy conservation and efficiency and load management, the use of renewable energy sources, and the use of clean energy sources;
- b) That will protect public safety and the environment, and promote economic and environmental sustainability in the generation, transmission and distribution of electricity; and
- c) That encompasses such other related matters as may be prescribed by the regulations.

s.25.28 (2) - Minister's Directives

Add new clause:

- e) the protection of the environment and public health, safety and security.

OPA Institutional Issues

s.25.13 (3). – Access to Information

This clause seems redundant, as the FOIPPA already provides protection for 3rd party business information. The clause should be deleted.

s.25.17 (4) – Minister of Finance Powers

The Ministry of Finance should not be able to delegate purchase of securities or making of loans to the OPA to non-governmental actors (i.e. delete reference to “solicitor” in this clause).

s.25.22 - Provincial Auditor

Amend to read: “provincial auditor may audit the accounts, activities and transactions of the OPA.”

- This ensures provincial auditor's capacity to undertake value for money audits of OPA.

Conservation Bureau

25.11(6) (new clause) – Forecasts and assessments

“The conservation bureau shall develop forecasts and assessments of the potential contributions of energy conservation and load management to the adequacy and reliability of electricity supply.” (and include forecasts in the annual report to be made under s.25.11(4))

25.27 (2) (new clause replacing 25.27 (2)) – incorporation of OPA assessments into electricity resource assessments.

“The OPA shall incorporate the conservation bureau's forecasts and assessments regarding energy conservation and load management, developed under section 25.11(6) into its assessment of the adequacy and reliability of electricity resources.”

Rationale:

- If Conservation Bureau's primary function is accountability, then it must be established as a separate entity from the OPA. It cannot function effectively as an accountability mechanism while reporting to the same board and CEO as the OPA.
- If the Conservation Bureau's function is ensure the incorporation of conservation in into the OPA's integrated power plan, then mechanisms need to be established to ensure that efficiency and conservation measures are incorporated into the plan, and that programs are actually implemented.

Regulations

s.51(6) – Definitions

Need to delete reference to “alternative energy source” and add reference to “clean energy source,” as per discussion as above.

Schedule B

Ontario Energy Board

s.1 – Mandate re: electricity

New clauses:

3) "To promote, in order of priority, energy conservation and efficiency and load management, the use of renewable energy sources, and the use of clean energy sources, in a manner consistent with the policies of the government of Ontario."

4) "To protect public safety and the environment, and promote economic and environmental sustainability in the generation, transmission and distribution of electricity."

s.5 - Costs

As noted in PIAD's brief, a costs approach will not provide an adequate basis for meaningful or useful public interest interventions before the OEB regarding the OPA integrated power plans. These will be proposals on the scale of the former Ontario Hydro's Demand Supply Plan, and will require substantial research to assess and critique.

An intervener funding mechanism is needed to address this need, so that substantial research can be contracted in a timely manner.

An option would be to permit cost awards before the commencement of the hearing. This could follow the basic model of the 1989 Intervenor Funding Project Act.

Would imply several new clauses

5 (2) The board may award reasonable costs to persons, prior to the commencement of a proceeding or process.

5(3) Awards under s.5(2) may only be made in relation to matters:

- (a) which affect a significant segment of the public; and
- (b) which, in the opinion of the Board, affect the public interest and not just private interests.

5(4) In deciding whether to make an award under s.5(2), the Board shall consider whether,

- (a) the person represents a clearly ascertainable interest that should be represented in a proceeding or process;
- (b) separate and adequate representation of the interest would assist the board and contribute substantially to the proceeding or process;
- (c) the person does not have sufficient financial resources to enable it to adequately represent the interest;
- (d) the person has made reasonable efforts to raise funding from other sources;
- (e) the person has an established record of concern for and commitment to the interest;

- (f) the person has attempted to bring related interests of which it was aware into an umbrella group to represent the related interests at the hearing;
- (g) the person has a clear proposal for its use of any funds which might be awarded; and
- (h) the person has appropriate financial controls to ensure that the funds, if awarded, are spent for the purposes of the award.

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