

**Submissions to the Standing Committee on Social Policy
Re: Bill 100, *The Electricity Restructuring Act, 2004***

Canadian Environmental Law Association

August 24, 2004

The Canadian Environmental Law Association (CELA) is a non-profit, public interest organization established in 1970 to use existing laws to protect the environment and to advocate environmental law reforms. It is also a free legal advisory clinic for the public, and will act at hearings and in courts on behalf of citizens or citizens' groups who are otherwise unable to afford legal assistance. Funded by Legal Aid Ontario, CELA is one of 79 community legal clinics located across Ontario, 15 of which offer services in specialized areas of the law. CELA also undertakes additional educational and law reform projects funded by government and private foundations.

CELA is working with other legal aid clinics, housing advocates, anti-poverty organizations and environmental groups on the environmental and social justice aspects of affordable electricity with an emphasis on energy conservation and ensuring the basic energy self-sufficiency of low income residents of Ontario.

The Canadian Environmental Law Association also has a history of work on sustainable energy issues and most recently conducted a study together with the Pembina Institute on Appropriate Development, "Power for the Future," a copy of which was provided to you by Dr. Mark Winfield on August 12, 2004 during his presentation to this committee.

I have brought with me today and provided to the clerk copies of specific clause by clause amendments proposed by the Pembina Institute, which the Canadian Environmental Law Association supports.

I wish to address the following points in today's submission:

- Bill 100 and protection of public safety and the environment
- Bill 100 and low income consumers
- Bill 100 and a culture of conservation
- Bill 100 and the future supply mix; specifically sustainable renewable energy

A. Bill 100 and protection of public safety and the environment

Bill 100 should be amended to include the following new purpose:

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

Inclusion of public safety and environment, as well as environmental sustainability in addition to economic sustainability is essential in order to ensure that decisions made at all stages in the electricity system include those aims.

In addition, there may be arguments as to whether economic considerations include environmental costs and it must be made explicit that economic considerations do include the environmental life cycle costs of sources of energy for electricity production. For example, in comparing prices, do we include the environmental costs of mining, emissions and the resulting health impacts, accident liability, waste management and disposal? These costs must be included in economic comparisons and other choices made under Bill 100.

Although environmental sustainability appears implicit in the Bill (for example by directing the OPA to develop an integrated power system plan that is designed to assist in the government's achievements of its goals relating to the adequacy of electricity supply, including from alternative and renewable energy sources in section 25.28), this objective should be explicitly stated.

Public safety and protection of the environment must be explicitly included as a purpose and as a factor in the mandates of the IESO, the OPA and in the goals of the Minister's Directives in section 25.28. Evaluation of public safety must include the entire life cycle of the source of electricity supply and must include the risks of accidents. The irreversibility of accidents must be one consideration in Ontario's future electricity mix.

B. Bill 100 and Low income consumers' access to electricity supply and conservation programs

Bill 100 should also be amended to include the following new purpose:

(l) To ensure the access of low-income consumers to the electricity supply and conservation programs.

While protection of consumers' interests and encouragement of electricity conservation are both stated purposes of the Act in the amendments proposed by Bill 100, it is necessary to explicitly state that one of the purposes of the Bill is to ensure access by low income consumers to electricity supply and to conservation programs.

It is expected that prices for electricity will rise in Ontario. It is not appropriate to maintain an artificial price cap for electricity prices and CELA submits that prices must be more realistic in order to achieve a sustainable electricity supply in the province. However, at the same time, as you heard in earlier presentations from the Advocacy Centre for Tenants Ontario and from the Toronto Environmental Alliance, both of whom are also founders of the Low Income Energy Network, LIEN, energy costs present a disproportionate burden to low income households. A number of factors conspire to increase the risk that rising energy costs present to these households, including the lack of maneuverability in household budgets, the strain that a utility increase presents, the risk of failure of equipment if it is aging, and the greater likelihood that many of those in the lowest incomes have electric space and water heating.

Electricity is a basic daily necessity in Ontario for cooking and heating. As a matter of justice, changes to the electricity system that will result in higher prices must be accompanied by measures to ease the burden that this will place on the lower income households. In addition to measures to ensure access to electricity supply it is also incumbent on the Ontario government to introduce measures that provide access to conservation programs for lower income households. The capital costs of many

conservation programs present an insurmountable barrier for many even though reduced consumption might in fact pay for the conservation measures. Programs designed to accommodate this reality must be explicitly provided in Ontario and must be encouraged by the design and purposes of Bill 100.

C. Bill 100 and a culture of conservation

The purposes clauses sections 1(b) and (d) should be combined to read,

(b) "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"

As it stands, the Bill does not establish a priority for conservation measures over new supply of electricity. A culture of conservation must be instituted, and it must be embedded in the structure of Bill 100 and the resulting institutions.

As you heard from Dr. Winfield in his presentation on August 12, 2004, our Power for the Future report found that, based on existing well accepted technology alone, a 40% reduction in electricity consumption in Ontario by 2020 compared to a "business as usual" approach is very realistic. This would be accomplished by ensuring that Ontario decisions and policies encourage a high rate of adoption of today's best technologies, from an energy conservation point of view over that time frame. One of the striking findings in that study is that most of the expenditure to adopt conservation technologies would be spread across a large variety of sectors and incorporated in their normal business costs. For most of these sectors, the implementation costs would be recovered through the reduction in electricity consumption resulting from their adoption of lower energy technologies.

We outlined a few policy steps in that report that would encourage such conservation measures. At this juncture, with the re-assessment of the vision for Ontario's electricity future represented in part by Bill 100, we submit that the Bill must establish a hierarchy with conservation measures ahead of new supply.

The mandate of the Ontario Power Authority must be similarly modified to ensure that its mandate includes supporting environmentally and economically sustainable electricity supply and to support the hierarchy of goals in order of priority, beginning with energy conservation and efficiency, load management, use of renewable energy sources, and the use of clean energy sources. Suggested wording is included in the Pembina Institute proposed amendments to which I earlier alluded.

In addition, some specific amendments are needed regarding the Conservation Bureau to be established by Bill 100. In particular, the Ontario Power Authority should be required to incorporate the conservation bureau's forecasts and assessments regarding energy conservation and load management into its assessment of the adequacy and reliability of electricity resources. The conservation bureau must function separately from the Ontario Power Authority. Mechanisms are needed to ensure that efficiency and conservation measures are incorporated into the plan and that the programs are actually implemented. Again, suggestions for wording changes to the Bill are contained in the Pembina handout.

D. Bill 100 and the future supply mix; specifically sustainable renewable energy

As has been vividly demonstrated in Ontario and much of North America with recent events in the electricity sector, the time has come to put a premium on sustainable, renewable energy. For the electricity supply that is needed, even after conservation measures are pursued, the province should establish a hierarchy of renewable sources and clean sources of electricity. The Bill must include provisions to evaluate renewability, and to compare environmental effects of various types of supply, on a life cycle basis.

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