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## **Green Energy Act on the Right Track**

**The Act being proposed in Ontario, while it may need fine-tuning, is an initiative worth consideration by the provincial government**

**By Tom Brett**

The Green Energy Act Alliance (the Alliance) has recently proposed that Ontario adopt a *Green Energy Act*. According to their proposal, “the purpose of the Act should be to facilitate the development of a sustainable energy economy that protects the environment while streamlining and improving the environmental and planning approvals process, mitigating climate change, engaging communities and building a world-class green industrial sector” — a tall order.

The Alliance’s definition of green energy includes conservation, district heating and energy from waste, renewable sources of energy and clean distributed energy. The Alliance argues that the Act is necessary to make Ontario a global leader in the development of green energy sources, clean distributed energy and conservation, creating jobs, enhancing energy security and reducing climate change.

### **The Act’s wish list**

The proposed Act would set new targets for renewables and conservation that are considerably more aggressive than those in the current Ministerial Directives to the Ontario Power Authority (OPA). It would also establish the principle of Advanced Renewable Tariffs as the mechanism for procuring renewable power (the actual tariff levels would be established by regulation and could be modified over time); establish a pricing mechanism for renewable power, which would include externalities; and require the transmission and distribution grids to expand to enable much more procurement of renewable power and permit no limits on the voltage connection or project size.

Prices would be set by regulation to ensure a fair return on investment for the proponent, whether a corporation, co-op, municipality, homeowner, or farmer. The transmitters and distributors would be required to give priority to connecting renewable energy projects, and would be permitted to include all generating and connection costs and related upgrades in their rate base.

In addition, the Act would establish a Green Energy Debt Finance Program to finance renewable and conservation projects, to encourage community energy planning by establishing a Community Power Corporation to encourage energy storage and regular updating of building codes and appliances.

Finally, the Act would amend the *Environmental Assessment Act* to simplify the approval process, remove the need for Planning Act approvals for renewable projects, and enhance notice requirements for green energy projects.

### **On the right track**

There is no question that a new burst of political commitment is required from the Ontario government if renewables and energy conservation are to realize their full potential. That new push may well come from the new Minister of Energy and Infrastructure, George Smitherman, who has asked the OPA to review its renewables and conservation target and plans. For example, the *Energy Conservation Leadership Act*, enacted over two years ago, mandates, inter alia, community and public sector energy plans, and authorizes legislative overrides to barriers to conservation projects. However, very little has been done to implement the Act. There are virtually no regulations, and the overrides have been used in only one or two cases. There are only a handful of public authority energy plans in the province. The OPA has been diffident in implementing its conservation plans, and the Renewable Energy Standard Offer Program (RESOP) has stalled through lack of adequate transmission and distribution infrastructure, and insufficient manpower (transmission).

The Act is on the right track to focus on the utilities, their role as enablers of conservation and green energy, and to allow them to recover these costs as part of the cost of service. Distributor costs in this area should probably be pooled and made payable by all distributors' customers to encourage province-wide action. Utilities should also be held harmless for lost revenues. The proposal is mute on how an appropriate amount of community (non-corporate) owned green power would be assured, or what such an amount would be. Finally, suggesting that regulated utilities be allowed to own generation projects seems counter to the spirit and letter of existing energy legislation and will be controversial. The proposal to eliminate competitive RFPs for all renewable projects and to replace these with tariffs is intriguing. Restructuring the RESOP might accomplish the same thing.

### **Further considerations**

The Act should also consider tariffs for energy efficiency and demand response projects as the OPA's existing programs for encouraging conservation are often overly complex and too prescriptive. Wherever possible, energy conservation projects should be treated like green power projects.

A number of legal drafting issues need to be reviewed prior to drafting the model Act. For example, targets for contributions from various renewables may be more appropriately put in regulations than in legislation. It is likely that some goals of the Act will be achieved by amending existing legislation such as the *Ontario Energy Board Act*, the *Energy Conservation Leadership Act*, the *Environmental Assessment Act*, the *Municipal Act*, and the *Planning Act*, and these requirements should be addressed early on.

On a more cautious note, it is unrealistic to ask the government to hold off approving all natural gas and nuclear projects until all of the green power initiatives have been addressed. It will take many years for all of these initiatives to come to fruition. Since many of the projects will be of

modest scale, it will take time to realize their cumulative effect. In the meantime, reliability requirements will probably mean that other projects must go forward.

In summary, while it raises some difficult issues, there is a lot that is good about this initiative. Its proposals are worthy of close consideration by the government.

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