

ONTARIO ENERGY ASSOCIATION

REVIEWING ONTARIO'S LONG-TERM ENERGY PLANNING FRAMEWORK: ERO 019-3007 SUBMISSION

April 27, 2021

To shape our energy future for a stronger Ontario.



Ontario Energy Association

ABOUT



The Ontario Energy Association (OEA) is the credible and trusted voice of the energy sector. We earn our reputation by being an integral and influential part of energy policy development and decision making in Ontario. We represent Ontario's energy leaders that span the full diversity of the energy industry.

OEA takes a grassroots approach to policy development by combining thorough evidence based research with executive interviews and member polling. This unique approach ensures our policies are not only grounded in rigorous research, but represent the views of the majority of our members. This sound policy foundation allows us to advocate directly with government decision makers to tackle issues of strategic importance to our members.

Together, we are working to build a stronger energy future for Ontario.

The recommendations contained in OEA papers represent the advice of the OEA as an organization. They are not meant to represent the positions or opinions of individual OEA members, OEA Board members, or their organizations. The OEA has a broad range of members, and there may not always be a 100 percent consensus on all positions and recommendations. Accordingly, the positions and opinions of individual members and their organizations may not be reflected in this report.

The Ontario Energy Association is pleased to provide this response to the Ministry of Energy, Northern Development and Mines (the Ministry) review of Ontario's long-term energy planning (LTEP) framework with a view to implementing a new, more transparent, predictable, and reliable planning process.

COMMENTS AND KEY RECOMMENDATIONS

The OEA has reviewed the Environmental Registry of Ontario (ERO) posting 019-3007 which states that the Ministry's "goals in reforming the approach to long-term energy planning are to promote transparency, accountability, and effectiveness of energy planning decision-making, increase investment certainty, and ensure the interests of ratepayers are protected." Further, the Ministry states that "a desired outcome of the new planning framework would be to empower expert technical planners, such as the IESO, to plan the most reliable and cost-effective system."

The Ministry also provided a list of guiding questions to assist in focussing feedback which are summarized in Appendix A.

The OEA has advocated for a reform to the energy planning process for some time and fully supports the Ministry's review of the LTEP framework. At a high level, the OEA supports the general thrust and goals outlined in the ERO posting, including the Ministry's consideration of revoking the provisions of the Electricity Act, 1998 related to long term energy plans, implementation directives and implementation plans.

The OEA has recommendations for reforming Ontario's energy planning framework guided by the questions in the posting and looks forward to discussing any proposed changes with the Ministry. The OEA believes that governance and other structural reforms associated with a new long-term energy planning framework could result in numerous positive outcomes including, but not limited to, an improved energy investment climate, more competition, greater innovation, lower emissions, all driving better outcomes for consumers in terms of energy reliability, cost, and the environment.

Critical to reforming the energy planning framework is developing a transparent process (and not returning to an all-encompassing plan like the previous LTEP and IPSP regimes) that takes an integrated approach to energy planning that is aligned with meeting energy needs and climate goals. In November 2020, the Government of Canada introduced a bill that would legislate a process of increasingly stringent 5-year targets to achieve net zero emissions by 2050. OEA members support this objective and intend to assist both the provincial and federal governments achieve this important objective in Ontario.

Reaching net zero by 2050 (NZ2050) will require a major transformation of Canada's and Ontario's energy sectors that demand a commensurately comprehensive and nimble planning framework to achieve this transformation.

This is made obvious by the fact most of our energy consumption happens outside of the electricity system. Currently 48 percent of Ontario's energy use comes from refined petroleum products primarily for transportation; 28 percent from natural gas primarily to heat our homes and buildings and power industry; 16 percent of our energy supply currently comes from electricity; 4 percent comes from biofuels; and the remaining 4 percent from other fossil fuels.

Therefore, reforming the energy planning framework in Ontario is a critical and extremely difficult challenge facing the province. Success requires the new planning framework to take a collaborative approach that breaks down the existing siloes not only within the energy sector, but also breaks down siloes between other sectors of the economy (e.g., transportation, buildings and heavy industry). It is only with such a collaborative, integrated approach to planning that a sustainable, reliable, affordable and low emission outcome can be achieved.

Overall, to achieve a stable and certain energy planning framework, the OEA believes the following reforms are required:

- 1a. The government should establish a new energy planning framework under which the government sets out clearly its desired and prioritized social and economic goals for the energy sector and energy use**
 - 1b. The government should state its desired and prioritized goals and objectives for all energy production and use in the province, and move away from its emphasis primarily on electricity planning**
 - 1c. The government's goals for the role of energy in relation to the environment, climate change and economic development should be included in these goals and objectives**
 - 1d. Require any government guidance and changes to the planning framework for the energy sector to be undertaken in a transparent and public manner**
 - 1e. Leave implementation and oversight of energy sector planning to independent agencies like the IESO (electricity only) and OEB (electricity and natural gas) collaborating and co-ordinating with energy utilities, and other relevant economic sectors (e.g., transportation), and government institutions (e.g., Metrolinx, Infrastructure Ontario)**
 - 1f. The planning framework, including agency mandates, should set out clear roles and responsibilities for meeting energy sector objectives as well as require full transparency in decision making, including data on economic, reliability, rate, and environmental impact, cost-benefit analysis and comparison of alternatives for major systems and regulatory planning decisions**
 - 1g. Competitive, technology neutral, processes should be used for the procurement of resources, whenever feasible**
 - 1h. The government should establish a process to hold energy sector agencies accountable for meeting or moving towards its stated objectives under the framework.**
 - 1i. Adjust agency mandates and legislation to enable them to incorporate government environmental and economic development goals into their respective planning processes**
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- 2a. Make statutory amendments that authorize the OEB to oversee all costs that affect customers' total electricity bills, including costs of supply (i.e., commodity line)**
 - 2b. Give the OEB greater oversight over other IESO activities where costs are recovered from ratepayers (e.g., ancillary services) as well as market rule/design changes (e.g., the Market Renewal Programs) which can impose costs on market participants and ratepayers**
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- 3a. Curtail the directive power of the Minister of Energy by reviewing and amending the current directive authorities in legislation to better circumscribe the instances where the Minister may issue a directive and to require that all directives be accompanied by a business case or cost-benefit analysis justifying the exercise of directive authority**

1. RESTORING CONFIDENCE IN THE PLANNING PROCESS

A significant driver of past cost increases in Ontario's electricity system has been the planning and decision-making process. For most of the past two decades, responsibility for energy planning (which has been predominantly focused on electricity) in Ontario has resided primarily with the Minister responsible for energy and the Premier's office. This structure has seen the advice of system planning experts at the Independent Electricity System Operator (IESO) and Ontario Energy Board (OEB) often overridden by political considerations.

Further, government interventions in the energy sector have sometimes been short-term in nature and in many cases have involved specific investments that did not appropriately consider affordability or system needs, policies (and policy reversals) that create uncertainty, threaten system reliability, raise costs, reduce choices for customers, and place a financial burden on taxpayers. These interventions can result in subsequent interventions to address the unintended consequences of the initial policy. Constant policy changes create uncertainty that diverts investment from Ontario and ultimately increases costs for energy consumers.

As noted by the Auditor General, "...over the last decade, this power system planning process has essentially broken down, and Ontario's energy system has not had a technical plan in place for the last ten years. Operating outside the checks and balances of the legislated planning process, the Ministry of Energy has made a number of decisions about power generation that have resulted in significant costs to electricity consumers." This conclusion applies much more broadly than generation procurement (e.g., Smart Metering Initiative¹), and is shared widely by energy sector participants, businesses, consumers and observers of Ontario's electricity sector.

Ontario requires a planning and regulatory framework that reflects the principles of transparency, accountability, and integration. An important benefit that will come from such a reform will be restored confidence in Ontario's energy marketplace and as a result, better outcomes for energy consumers. Ontario competes globally for access to capital; therefore, to get the lowest possible capital cost for future energy initiatives in Ontario, it is important that investors have confidence in the certainty and stability of the energy planning framework.

The OEA believes that now is an opportune time to significantly improve the energy planning framework in Ontario. Given that the government has already taken steps to improve the effectiveness, transparency, efficiency, and accountability of the OEB by modernizing the regulator's governance structure, the modernized and improved OEB should be leveraged and given a key role in a revitalized planning framework.

The OEA believes that government has a critical role to play in establishing the overall energy framework for the province. It is clear from Ontario's history that elected officials have consistently had a direct interest in the role the electricity sector plays in the province. Often the electricity sector has been seen as a lever for economic development (e.g., establishing and continuing Ontario as a leading nuclear jurisdiction, with associated supply chain employment; or launching the *Green Energy Act* to create jobs coming out of the 2008-09 recession). Sometimes the government's interest has focussed on the environment.

Looking ahead, elected officials will have a critical role in setting the broad direction for the energy sector, not just the electricity sector. Climate change objectives are becoming increasingly

¹ See: <http://www.auditor.on.ca/en/content/annualreports/arreports/en14/311en14.pdf>

important to federal, provincial and municipal governments. Reaching the objective of net-zero 2050 points towards a major transformation of Ontario's energy sector. It is the Ontario government that will have to guide the overall direction of the energy sector in this environment.

What the OEA has struggled with is how to best establish a sustainable governance framework for the energy sector that will allow the government to provide the high-level leadership that is expected by the Ontario electorate. The framework must establish public confidence such that it can be sustained through changes in governments and changes in Ministers, and still provide an effective vehicle to allow government to provide leadership for the sector.

Ultimately, the OEA would like to see political parties, governments, Ministers and Premiers provide suggestions and direction in terms of objectives, rather than prescribing solutions. And that these objectives be transparent and public. In the past the OEA has suggested this be done through the legislature, to ensure more rigor and public scrutiny of decision making by moving decision making from the Executive Branch to the Legislative Branch. We modelled our advice in the past based on the governance structure established in England. While this still remains an OEA preference, we have ceased to emphasize it in this document, as we recognize that a government can change legislation, so that ultimately having a new governance structure enshrined in legislation is no guarantee of its sustainability. So rather than having our recommendations hinge on this, we have adapted them to focus on the outcomes and roles we would like to see, rather than the formal legislative structure.

To begin with, the government can and must set a long-term, broad energy strategy that it seeks to achieve. This strategy should be implemented through a framework that empowers government, its agencies, and industry to achieve the government's goals over time with appropriate oversight rather than through the production of a single, large-scale plan requiring regulatory approval. That strategy should outline the government's objectives for energy use broadly in the province as they relate to things such as economic development, environment, climate change, etc. Periodic reviews should occur on a relatively fixed schedule to allow stable policies and a stable investment climate between the reviews.

- 1a. The government should establish a new energy planning framework under which the government sets out clearly its desired and prioritized social and economic goals for the energy sector and energy use**
- 1b. The government should state its desired and prioritized goals and objectives for all energy production and use in the province, and move away from its emphasis primarily on electricity planning**
- 1c. The government's goals for the role of energy in relation to the environment, climate change and economic development should be included in these goals and objectives**
- 1d. Require any government guidance and changes to the planning framework for the energy sector to be undertaken in a transparent and public manner**

The government can and should set a long-term, broad energy strategy (e.g., setting and prioritizing planning objectives/goals such as lowest cost, reliability, safety, affordability, economic development & job creation, climate change, Indigenous consultation and participation, community engagement) and be able to review and change these policies when required. These periodic reviews should occur on a fixed schedule and stable policies must be in place between the reviews.

Requiring that any guidance and significant change to the province's long-term energy strategy be undertaken in a transparent and public manner will foster a more considered approach by

government and mitigate greatly the use of more short-term, prescriptive policies, such as making specific decisions to purchase certain energy products, picking the procurement method, the price offered, the length of contracts, and other planning details. Provisions should be made for a formal process of stakeholder participation with written submissions when the government is undertaking a framework review (e.g., through the OEB).

The government's energy strategy and guidance should consider overall energy use in Ontario, and not just focus primarily on electricity, as has been the case historically. Electricity consumption currently represents only 16% of the energy consumed in Ontario.² The government's strategy for energy in the province needs to look at its energy sector holistically and not in a siloed manner. This will become more and more critical as Ontario continues its efforts to transition to a low carbon economy and achieve NZ2050.

For example, the last LTEP released in Ontario, in 2016, was informed by a *Fuels Technical Report*³ that "establishe[d] a comprehensive view of the current state of the fuels sector in Ontario, including a review of fuels consumption and a set of outlooks for the 2016 through 2035 period." The report noted that "Ontario's fuels and electricity sectors are closely linked. Both electricity and fuels can be a source of energy for space heating equipment in homes and businesses. In the future it is likely that a growing number of transportation options will offer electric alternatives to fuel-based options. Choices made around these products and services will influence the demand for both electricity and fuel energy in parallel."

Importantly, the report also states that "Ontario's fuels sector has experienced considerable change over the past several years. Change has been driven by evolving fuels supply resources and pathways, new fuel-using technologies and the introduction and uptake of new and low-carbon alternative fuels." This evolution of both the sources and uses of fuel as a source of energy along with the NZ2050 target requires the province to adopt a holistic approach to energy sector planning (e.g., power to gas as an energy storage option; using clean electricity as an input to the creation of cleaner fuels).

1e. Leave implementation and oversight of energy sector planning to independent agencies like the IESO (electricity only) and OEB (electricity and natural gas) collaborating and co-ordinating with energy utilities, and other relevant economic sectors (e.g., transportation), and government institutions (e.g., Metrolinx, Infrastructure Ontario)

Energy planning should be made collaboratively, coordinated (considering all fuel sources), transparent, and reference publicly available facts and information that justify the decision as much as possible. This is more important during this time when the energy sector is currently undergoing a significant technological transformation. The pace of technological change and innovation is accelerating. This environment is evidenced by the many policy and energy strategies currently being undertaken by governments at various levels related to hydrogen, storage, small modular reactors, renewable natural gas, natural gas expansion, transportation related fuel-switching, and climate change.

The planning process should be independent and take full advantage of government agencies, energy utilities, and industry that possess deep expertise and knowledge about energy issues,

² Source: Canada Energy Regulator. Canada's Energy Future 2019.

³ Source: Navigant Consulting. Fuels Technical Report. Prepared for the Ministry of Energy.

<https://www.ontario.ca/document/fuels-technical-report>

infrastructure investment and planning, capital markets and the regulation or management of various aspects of the sectors involved. The planning process should include comprehensive public consultations, especially in the case of longer-term decisions, such as the setting and prioritizing of objectives.

For example, the existing regional planning process, overseen by the OEB, recognizes that each region in Ontario has unique needs and that there are various ways for these needs to be met (e.g., conservation, generation, transmission, distribution, and innovative solutions, such as Distributed Energy Resources).

There are 21 electricity regions across the province and the first cycle of planning reports has been completed and this is expected to be repeated at least every 5 years. It is an inclusive process with the IESO, local utilities, local transmitters, gas utilities, and the public (i.e., Indigenous communities, municipalities, individuals, and business groups) working together to determine the best way for electricity needs to be met. The government should consider ways to augment and enhance the existing regional planning process for the new energy planning framework.

1f. The planning framework, including agency mandates, should set out clear roles and responsibilities for meeting energy sector objectives as well as require full transparency in decision making, including data on economic, reliability, rate, and environmental impact, cost-benefit analysis and comparison of alternatives for major systems and regulatory planning decisions

Major planning in Ontario has often been done without any stakeholder input or the transparency of cost-benefit analysis to demonstrate that the decisions were optimal for Ontario energy consumers, fair to energy market participants, and accomplished the other stated goals of the planning decision (e.g., economic development).

In order to ensure that energy consumers and the public more broadly are benefitting from the best options available to them and understand and are accepting of the planning decisions made, agency mandates require that any major energy planning decision be supported by a cost-benefit analysis undertaken that compares the benefits and cost of potential alternatives.

This transparency will instill confidence for investors in making investments in Ontario, leading to more investment and, lower costs for energy consumers, and will result in fair treatment of stakeholders and market participants.

1g. Competitive, technology neutral, processes should be used for the procurement of resources, whenever feasible

For various reasons, most of the electricity generation capacity added in Ontario over the last decade has not been procured competitively. Instead, resources were procured on a non-competitive basis with a pre-set guaranteed price.

Ontario's Auditor General has noted that if a competitive process for procurement had been used for some of these procurements, Ontario's electricity consumers could have saved billions of dollars over the life of these contracts.

In the future, when Ontario's electricity system requires resources, the use of a competitive process should be required by default to ensure that the system can meet environmental and reliability objectives at the lowest possible cost for consumers. If a non-competitive procurement is necessary, it should be reviewed and approved by the OEB before proceeding.

In circumstances where a particularly expensive non-competitive procurement is being undertaken for primarily economic development & job creation reasons and/or environmental consideration rather than energy system needs, government oversight or review should be required before proceeding.

1h. The government should establish a process to hold energy sector agencies accountable for meeting or moving towards its stated objectives under the framework

With more autonomous agencies, there remains an important role for the government in holding its energy sector agencies to account for meeting the government's stated objectives. This could be done through requirements for annual reporting, and/or through a review by a committee of the legislature. Consideration should be given to allowing public participation in these hearings to allow the government to consider feedback from the public as it evaluates agency performance against legislative mandates.

1i. Adjust agency mandates and legislation to enable them to incorporate government environmental and economic development goals into their respective planning processes

The current mandates of provincial agencies do not allow them to incorporate new government objectives for things like climate change and economic development. In many cases, a government agency may be the best positioned to develop the energy plans necessary to meet government objectives. Given the increasing importance of these objectives in a transition to a low carbon economy, government agencies need the appropriately clear, prioritized legislative mandates and resources to properly undertake the planning framework. For example, the OEB should be encouraged to look at innovative solutions and to incorporate low carbon fuels such as hydrogen and RNG into the existing natural gas distribution system to enable decarbonization while leveraging existing assets. The OEA recognizes that the planning framework may have significant implications for citizens and businesses. Therefore, as part of the regular review outlined above, the government should have the opportunity to provide direction on planning decisions that will have significant societal impacts prior to their implementation.

2. OVERSIGHT OF ELECTRICITY COSTS

The previous section addressed the need for a holistic approach to energy planning. However, the OEA believes that a major challenge to the OEB's mandate and objectives that limit their ability to effectively lead long-term planning process is the lack of mandate for oversight over the total cost recovered from ratepayers including oversight of the IESO's resource procurement and market operation activities.

2a. Making statutory amendments that authorize the OEB to oversee all costs that affect customers' total electricity bills, including costs of supply (i.e., commodity line).

As noted by the Auditor General of Ontario:

“OEB's oversight is limited to only about 35% of Ontario's current installed capacity. The other two-thirds are ministry-directed power supply contracts with other nuclear generators and renewable and gas generators, which the OEB has no authority to review

[...] the OEB's oversight will decrease to only about a quarter of Ontario's installed capacity by 2032."⁴

Further, the OEB's review of the IESO is limited to only the IESO's recovery of its costs and payments related to procurement contracts (i.e., generation and conservation) are deemed to be approved by the Board (*Electricity Act, 25.1 (3)*)

This environment limits significantly the OEB's ability to discharge its statutory objective to "promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry." For example, when new generation capacity is added to the electricity system, depending on where it is built, it typically requires additional investments at the transmission and/or distribution level. When the generation expansion is directed by government, the OEB has little choice but to approve the investments required to accept the generation, which are paid for by ratepayers.

Giving the OEB authority over the total cost envelope would allow it to take a broader perspective on all rate applications (OPG, transmission, and distribution) and investment choices (e.g., conservation versus generation; bulk-system versus distributed generation; competitively resourced procurement versus sole-sourced) and better ensure that economic efficiency and cost effectiveness of the whole sector is achieved.

2b. Giving the OEB greater oversight over other IESO activities where costs are recovered from ratepayers (e.g., ancillary services) as well as market rule/design changes (e.g., the Market Renewal Programs) which can impose costs on market participants and ratepayers.

This increase in oversight to include resource acquisition and market design is warranted because the existing oversight of the OEB over the IESO assumes competitive wholesale generation markets at the bulk-system level and retail competition in the sale of electricity at the consumer-level. The assumptions underlying this regime did not contemplate that the IESO would be managing and procuring significant supply and conservation resources, nor did it contemplate the penetration of DERs and the need for utilities (rather than the IESO) to manage DERs (e.g., control and dispatch) and forecast growth in DERs.

3. MINISTERIAL DIRECTIVES

The OEA highly values independent regulators and agencies with effective governance mechanisms. Prescriptive directives are incompatible with an independent regulator. In the past, there have been occasions where the Minister of Energy has issued prescriptive directives to energy sector agencies, such as the OEB and IESO.⁵

3a. Curtailing the directive power of the Minister of Energy by reviewing and amending the current directive authorities in legislation to better circumscribe the instances where the Minister may issue a directive and to require that all directives be accompanied by a business case or cost-benefit analysis justifying the exercise of directive authority

⁴ <http://www.auditor.on.ca/en/content/annualreports/arreports/en15/3.05en15.pdf>

⁵ <https://www.oeb.ca/industry/policy-initiatives-and-consultations/directives-issued-oeb>

The stability of the sector is based on the ability of businesses and customers to rely on the independence of the regulator. The oversight of the sector is highly disrupted by Ministerial directives that change the course of policies, delay processes, or introduce new policies based on short-term political goals. These types of interventions erode public and sector trust in the regulator.

For example, the 2010 Smart Grid directive⁶ to the OEB set out three objectives for the development and implementation of smart grid (with parameters for each objective) as well as directing the OEB to be guided by ten policy objectives when evaluating smart grid investments. Prescriptive directives impede the independence of the regulator to discharge its statutory responsibilities.

To re-affirm the independence of the OEB and IESO, the OEA believes that the discretionary power of the Minister of the Energy to issue directives to the OEB and IESO be curtailed significantly from what exists in legislation currently.

As outlined above, the OEA recognizes the important role that the government must play in providing overall guidance to the energy sector, and in holding energy sector agencies to account. In suggesting a curtailment of the directive powers, the OEA is not trying to limit the government from fulfilling its critical role in providing overall direction to the sector or prohibit Ministerial directives completely. What we are suggesting is that this direction come in a more transparent and public way, and that the direction be at an overarching policy level so that the expertise of the energy sector agencies, energy utilities, and industry can be leveraged to achieve the best outcome for Ontario citizens.

⁶ https://www.oeb.ca/oeb/Documents/Documents/Minister_directive_smart_grid_20101123.pdf

APPENDIX A

List of guiding questions from Environmental Registry of Ontario (ERO) posting 019-3007.

How can we promote transparency, accountability and effectiveness of energy planning and decision-making under a new planning framework? What overarching goals and objectives should be recognized in a renewed planning framework?

What respective roles should each of the Government, IESO, and the OEB hold in energy decision-making and long-term planning?

What kinds of decisions should be made by technical planners at the IESO and the OEB as regulators?

What types of decisions should require government direction or approval?

Are there gaps in the IESO and the OEB's mandates and objectives that limit their ability to effectively lead long-term planning?

Should certain planning processes or decisions by the IESO, the OEB, or the government receive additional scrutiny, for example through legislative oversight or review by an expert committee?

How often and in what form should the government provide policy guidance and direction to facilitate effective long-term energy planning?

How do we ensure effective and meaningful Indigenous participation in energy sector decision-making?

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