

December 14, 2011

Fareed Amin
Deputy Minister
Ministry of Agriculture, Food and Rural Affairs
11th Floor 77 Grenville Street
Toronto ON M5S 1B3

Dear Deputy Minister Amin,

The Ontario Energy Association (OEA) would like to thank you for launching the review of Ontario's renewable energy Feed-in Tariff (FIT) Program and for inviting broad public input.

The OEA has more than 150 corporate members who represent the full diversity of the energy industry in Ontario – power producers, firms that transport, transmit, and deliver natural gas and electricity, marketers and retailers, manufacturers, contractors, service providers, and energy consultants. Such diversity allows us to offer a broad perspective on the FIT Program including its impact on other market participants.

The OEA submission is based on feedback we received from:

1. OEA FIT Review working group;
2. OEA stakeholder consultation session with Deputy Minister Fareed Amin, Colin Andersen;
3. An internally conducted membership survey on the FIT Program; and
4. Focus interviews with members from different OEA member classes.

The submission is divided into four sections:

- Section one: Reiterates the principles of sound policymaking from the OEA's *Blueprint for Energy Policy in Ontario*.
- Section two: Provides commentary on issues and challenges with Ontario's FIT Program and the review process where the majority of our members reached a consensus.
- Section three: Provides recommendations and concerns voiced by individual sectors of the OEA's membership: FIT Program proponents (with or without contracts), manufacturers, construction contractors, utilities, consulting firms, and other OEA member companies.
- Section four: Concluding remarks.

We look forward to continuing the dialogue with the government on how to advance Ontario's green energy goals in the most cost-effective and responsible way. If you have any questions regarding this submission please contact me at 416 961 2339 ext 227 or at ehertzig@energyontario.ca.

Sincerely,



Elise Herzig
President and CEO
Ontario Energy Association

I. INTRODUCTION

In March 2011 the OEA issued *A Blueprint for Energy Policy in Ontario* (the OEA Blueprint) that present a set of overarching principles for sound energy policy. A number of these principles directly apply to the scope of the announced FIT Program Review. In particular, the OEA Blueprint recommends that:

...
“Government must ensure that Ontario’s energy policy is fact-based, cost-effective and transparent, and there should be awareness of the cost impacts of economic, environmental and societal goals.

...
Government should set the long-term goals, benchmarks and priorities for energy policy and the energy sector and, once they have been set, keep to them as much as possible and not deviate from their underlying principles, so that the energy sector can invest with confidence that the chosen policy will be sustained and not abandoned or changed mid-course.

...
To better manage cost increases to ratepayers, and to allow investors to more accurately ascertain risks and rewards, government and its agencies must ensure that the regulatory environment allows energy companies to undertake energy projects with minimal delays.

...
Future energy programs should be cost-effective over the long term. In its long-term planning government should be mindful of impacts on energy bills.

...
To prevent increased costs and delays in implementation, government must ensure that local authorities and processes cannot undermine provincial energy policies, plans and processes

...
Government must streamline approval processes and engage communities to increase acceptance of new energy projects.”

The OEA recommends that the government apply the aforementioned principles to the FIT Program review and the new Program.

II. COMMON ISSUES WITH THE EXISTING FIT PROGRAM AND THE REVIEW PROCESS

The government’s decision to set attractive and guaranteed FIT prices and not make any changes or reduce prices prior to the two-year mandatory review generated a tremendous uptake of Ontario’s FIT Program. Such strong commitment has significantly boosted investor confidence, and many businesses have invested money and resources in Ontario’s renewables sector. New businesses were set up, new jobs created, and a clean energy manufacturing industry rapidly emerged in the province.

Nonetheless, there are a number of issues and concerns that OEA member companies have identified with FIT Program objectives, design, and implementation, as well as with the current FIT Program review process.

I. Lack of clarity with respect to the FIT Program’s objectives

While most OEA survey respondents [94%] indicated that they understand the goals of the FIT Program, there is little agreement on what exactly those objectives are. Ranked by the frequency with which they were cited, the FIT Program goals according to OEA members are: (i) address environmental concerns, (ii) create jobs, (iii) meet provincial electricity supply needs, (iv) ensure affordability, and (iv) become an innovation leader. Some of our members commented that the FIT program has multiple objectives that

are often contradictory. For example, job creation requires domestic procurement rules that, in turn, tend to negatively affect innovation, competitiveness and affordability. A recent OEA commissioned study entitled, “Guide for Ontario Energy Policy Makers: Multi-Criteria Decision Analysis to Develop Sound Energy Policy and Promote Green Energy” points to the issue of multiple priorities and their interplay. The study recommends using 11 screening criteria to weigh and choose from more than 27 policy options commonly used by governments around the world to fulfill renewable energy policy objectives. One of the key findings from the report is to ensure that in situations where there are multiple goals that there is clarity of priorities.

II. Multiple challenges and barriers to successful FIT Program implementation

When asked which FIT program components worked particularly well, more than 50% of survey respondents indicated that it was the attractive price schedule that succeeded in drawing investors to Ontario’s renewable energy sector. About 35% of this group also stated that the program rules worked well. However, contract management and the application process did not work quite as expected according to 64% of survey respondents. Delays in processing FIT applications, in receiving regulatory approvals, and failure to connect have been identified as the main barriers to Program implementation in individual comments ranked by the frequency of being mentioned. There were a number of comments that suggested enhancing the cooperation and communication between different agencies, local distribution companies (LDCs), and project proponents. Respondents also stressed the need to report on connection availability and to provide periodic updates on the number of applicants, renewable capacity in the pipeline, location information, expected attrition, expected timelines to connect etc. Some members have indicated that there is an urgent need to report on coordinated transmission and distribution planning, including reporting on the progress of upgrades and expansion of the existing system.

A critical component of the FIT Program is the linkage between renewable generation development and expansion of the transmission and distribution systems. This is a particularly important point considering the backlog of FIT projects requiring connection capacity to move forward. One of the recurring suggestions was the need to review and act on mechanisms such as the Ontario Power Authority’s Economic Connection Test and the incentives given to LDCs to upgrade/expand their distribution systems (e.g., up to the \$90,000/kW currently permitted by the OEB) with a view to creating stronger linkages between renewable generation development and expansion of the transmission and distribution systems.

III. Issues with regulatory stability, contract sanctity, and grandfathering of existing arrangements

The majority of OEA members indicated that regulatory stability and predictability are essential to sustainable markets. Likewise, OEA members do not approve of mid-course changes and maintain that retroactive changes are extremely harmful to the provincial investment climate; it was therefore suggested that any changes be applied as of the date the review was announced. As well, project proponents whose projects were granted extensions to April 2012 due to delays beyond their control (such as delays in Connection Impact Assessments or Notices to Proceed) seek clarification on whether they will be subject to the new program and pricing rules that will be determined by this review.

One last recurring comment was the importance of addressing the need for community support in order to ensure that energy projects get built where they are needed. If other industries can succeed in building critical infrastructure (for example, cell phone towers) so too can the renewable energy industry. The installation of smaller, less obtrusive projects may be an acceptable option in many communities. There is growing consensus that a comprehensive process needs to be developed by the

government in cooperation with industry and local communities to ensure community buy-in prior to shovels breaking ground.

IV. Level of transparency with the current FIT Program review process

Finally, our members indicated it would have been more beneficial if the consultation process had followed the same process used by the OEB and OPA consultations where stakeholder comments were posted in the public domain. In regards to the transparency of the consultation process, a number of OEA members requested clarification of the role played by the OPA (given that the government is leading the review) and the direction the program may take in the future, including the disclosure of cost reduction factors pertaining to adjustments to existing price schedules. More transparency is needed after the submission deadline (Dec 14, 2011) has past and before changes are made to the Program Rules, standard Contract, and Price Schedule.

III. SECTOR SPECIFIC ISSUES

Please note that the comments and suggestions presented in this section do not necessarily represent the views or positions of the OEA Board of Directors or all OEA members. Rather, this section provides summaries of feedback received from different categories of members.

FIT PROPONENTS

OEA members that either have or are pursuing FIT/microFIT contracts have additional concerns not limited to the ones mentioned in Section II of this submission. For them, the key issues, arranged by the frequency with which they were mentioned, are the backlog in the approval process, connectivity constraints, poor contract management, and program design issues.

I. Streamlining approvals

Most FIT proponents expressed interest in increasing the coordination and cooperation between government agencies, including the Ministry of Energy, Ministry of Environment, Ministry of Natural Resources, Ministry of Municipal Affairs and Housing, the OPA, the OEB, and regulated entities such as LDCs and transmitters. Regulatory approvals (e.g., the Renewable Energy Approval (REA)) and timelines for receiving these approvals need to be coordinated with FIT contract requirements and timelines to meet those requirements.

Members in this group were divided when it came to having different rules for small and large projects. Generally, larger players maintain that the rules of the game should be consistent for all project proponents while smaller players suggest implementing simplified approval processes (including automatic connection rights) for smaller projects. There were a number of companies that suggested increasing the 10 KW threshold for small projects subject to simplified approval, including setting several threshold levels of small level projects and having the approvals calibrated with the size and the type of the project.

Whether for large or small projects, it was recommended that approvals need to be strongly coordinated with FIT contract requirements and timelines. For example, the studies that will be required for REA applications need to be known well in advance. The timelines for completing these studies need to be coordinated with the timelines for completing and submitting the REA application itself, all of which need to be done in accordance with requesting Notice to Proceed (NTP). Similarly, impact

assessments (e.g. Connection Impact Assessments and System Impact Assessments) must be completed in a timely manner in accordance with FIT contract requirements and timelines.

II. Enhancing contract management

Despite positive feedback from a few members who were extremely satisfied with the success of the FIT program, the majority of survey respondents who either have or are pursuing a FIT contract (77%) expressed frustration with the application backlog, technical delays, and staffing issues in the decision making authorities, be they ministries, the OPA, the OEB, LDCs, or transmitters. OEA members in this category maintain that timeline management needs to be improved on both ends to discipline program administrators, regulators, and market participants alike. Some respondents were dissatisfied with the lack of an accountability mechanism for proponents who were granted connection rights but for whatever reason failed to proceed with the project. One of the recommended alternatives is the establishment of some form of expiry of connectivity rights. This would allow other active players to proceed, and would also force the OPA to periodically provide current attrition rates and connectivity capacity updates.

Some members recommended that process timelines be announced ahead of time and establishing clear enforcement rules, including incentives and penalties on both ends for failure to satisfy commitments. There were a few instances where members in this category suggested clarifying the role of the OPA and LDCs in managing contracts. One respondent recommended transferring the management of microFIT contracts to LDCs and providing distributors with appropriate incentives for managing such functions.

One recurring recommendation in the feedback received from the FIT proponents group of members is to implement a streamlined LDC process with applicable service level agreements (SLAs); it is expected that such agreements would significantly improve the implementation rate of FIT projects in the cue. A streamlined process for connecting FIT projects to the grid through LDCs would facilitate a uniform standard amongst the many distribution companies, harmonise the level of diligence, and unify compliance standards (including the completion of Connection Impact Assessments (CIAs) within a guaranteed timeframe) all with mutual enforcement rules for both the proponents and the distributors.

III. Qualifying buildings for rooftop solar

Several solar developers indicated that there are many unintended consequences to changes in program design. For example, the amendments to the capacity allocation exempt (CAE) rules for rooftop projects stipulated that buildings needed to be built prior to applications being filed for rooftop solar projects. This unintentionally resulted in a prohibition on integrating solar panels into building structures (roof, façade) during construction. It was suggested that program rules should not specify methods of technology integration that may exclude some projects or hinder innovation.

IV. Addressing the issue of security deposits

Security deposits were put in place to discourage specious project proposals and to discourage parties from attempting to game the system by inundating it with project proposals, only a fraction of which would be viable. However, some proponents have argued that the consequence has been to discourage some parties, such as community groups and small private investors, from being able to afford to participate in the program. On the other hand, some proponents do not object to the government's use of security deposits. Another suggestion was to recalibrate the level of application, completion, and performance security to incentivize and direct the level of Program participation per each technology type.

V. Addressing change of control rules

Change of control restrictions were included in the FIT rules to discourage parties from trying to game the system by winning more projects than they could feasibly carry forward, only to sell them at a premium to others. However, these rules have created an administrative barrier to efficient allocation of the projects to those parties that are best able to complete them, particularly in the face of regulatory and cost adversity. Some proponents have argued that change of control restrictions should be removed, to facilitate the transfer of viable projects to parties that are best able to complete them, which is the government's ultimate aim. However, in order to continue to prevent specious applications, security deposits could be increased further. These mechanisms - security deposits and change of control provisions – have the same objectives, but the two of them when combined are redundant and create undue costs and burdens.

VI. Improving access to debt financing

The ability of solar and wind projects to access debt markets, difficult as it always was, has been threatened by international financial instability and by ongoing challenges with the FIT program and the electricity system in Ontario, such as the risk of IESO “constrained off” situations without compensation. In making changes to the Program, the government should recognize the challenges with debt financing and find ways to ensure that new rules will be met favourably by debt markets.

VII. Pricing schedules

There were divergent views amongst OEA members who either have or are pursuing a FIT contract when it comes to changes in pricing. Some members maintain that pricing will have to come down significantly to reflect savings associated with economies of scale, accumulated inventories, and lowering of some input costs. Others, while agreeing that prices may need to come down, suggested a gradual step down linked to reaching a pre-determined level of installed capacity per each technology type.

MANUFACTURERS, CONTRACTORS, AND SERVICE PROVIDERS

Members in this group have been considerably encouraged by the strong commitment of the Government of Ontario to renewable energy and by its bold renewable targets. Yet manufacturers, developers, and contractors who are directly or indirectly connected to FIT project proponents are frustrated when it comes to the significant backlog of applications, lengthy approval timelines, and the lack of connection capacity for their FIT counterparties. This group maintains that suppliers experience significant difficulties managing the lead-time they need and the volume of incoming orders due to poor timeline enforcement. If the pace of implementation and development of renewable projects are not increased, many of these manufacturers indicated that they might not continue to operate or invest in Ontario. Some of the respondents in this group suggested export incentives, while others suggested a simplified approval and connection process for smaller projects that would minimize red tape and be truly capacity allocation exempt (i.e. connected with no delays).

Some of the manufacturing members indicated that the Ontario market, while robust, is not large enough to sustain a renewable manufacturing sector on its own. In particular they call for Ontario to align domestic opportunities with those available in other North American jurisdictions. The current costs of production in Ontario are typically higher than elsewhere; in order for production costs to come down, more products must be manufactured than the Ontario market can absorb. Encouraging exports through credits will enable wind turbine and solar panel producers to offer more competitive pricing in

the Ontario market because export credits will increase production volumes. Greater economies of scale will reduce component pricing and associated Ontario turbine/panel premiums, allowing FIT rates to be reduced over the long term while positively impacting the Green Energy Act's job creation objectives.

Generally, this group is also very supportive of domestic content rules, indicating that this provision creates a domestic market for them. Some respondents commented that should domestic content provisions be eliminated, many manufacturers would be forced to close up shop.

DISTRIBUTORS

The general concerns shared by OEA members in this group was the obligation to fulfill a new mandate (i.e. connection of FIT/microFIT projects) without being afforded adequate flexibility or the tools to address the unprecedented number of application connection requests flowing in from FIT Program proponents. These members suggested formalizing the process to allow distributors to manage in a rational way the inflow of connection applications, as well as including adequate incentives and an interim cost recovery mechanism.

The process of exchanging information with the OPA needs to be formalized. Offers and contracts should be released to distributors in smaller rather than larger batches and on a much more frequent basis than they currently are. Similarly, it was suggested that the number of applications accepted in any given period be limited, with applications based on a first-come, first-served basis. This would allow distributors to better plan their capital spending, budget, and staffing needs. Another recommended solution was to not accept applications in areas where connection capacity has been reached and where system upgrades or expansions are not economically feasible. This would allow distributors to better plan their capital spending, budget and staffing needs, set the right expectations in project proponents and minimize processing delays.

Some members in this class indicated that there is need to increase the awareness among project proponents in respect to cost responsibility for system and expansion upgrades. It would be helpful for the OPA to inform proponents in advance that they could be liable for large upgrade costs in the event that *their* project is the one that tips the scale (i.e. triggers the upgrade). In general, large generator proponents have a better understanding of cost responsibility issues. However, smaller proponents are routinely caught unaware that their projects could trigger investments for which they would be responsible. Program marketing objectives should be refined and revised to allow for increased small generator education with respect to cost responsibility.

Some distributors maintain that they have the ability to report on where connection capacity exists in Ontario, including how much capacity there is at specific transformer stations. If distributors were to post such information on their websites and share such information with the OPA, some of the issues with the application backlog would naturally disappear. However, it was suggested that clarification be provided on how frequently such capacity availability information needs to be updated (e.g. on a monthly/quarterly/yearly basis). It was expected that this would increase the popularity of distributor-connected generation and offer more predictability to market players.

Finally, some members in this class expressed interest in having distributors – both natural gas and electricity – play a larger role in assisting the Province in reaching its renewable energy targets using the regulatory framework overseen by the OEB. Members indicated that an integrated energy approach that fosters greater involvement of distributors would create a fair playing field for all interested parties and would contribute to a smoother approval process and better planning. Also, that deeper coordination of natural gas and electricity systems will ultimately result in lower overall costs to ratepayers.

TRANSMITTERS

Transmitters are concerned that as more generation is connected to the transmission system, the system becomes increasingly constrained, and system capability limits may be reached sooner rather than later. It is especially important under such circumstances that FIT Program timelines and rules allow sufficient time for a more rigorous and extensive Transmission Availability Test (TAT) so that any issues can be identified far enough in advance to allow proponents to make informed decisions. Transmitters believe that detailed connection assessments (ie. SIA/CIA) can protect proponents from the risk of unexpected system upgrades or connection issues – issues can significantly affect the cost and timeline of projects. This group of members also suggested that the OPA continue to inform proponents of the work, timelines and costs that may be associated with providing transmission assessments, estimates, and actual connections.

Finally, the current siting choices for generation that is too far from load centres need to be addressed to reduce line losses, reverse flow, cost inefficiencies, and the need for transmission upgrades. This may include the need to more accurately match load to generation both in magnitude and geographic location. Also, the OPA may need to inform all proponents that under the current OEB framework developers could be liable for large upgrade costs in the event that their project triggers an upgrade to transmission assets.

Unlike distributors, transmitters and developers may benefit from releases of larger batches of FIT contracts and offers. Larger batches allow transmitters to coordinate their needs and conduct assessments more efficiently, including estimating the combined impacts of such projects on the transmission system. This is believed to facilitate the identification of the most cost effective solutions or upgrades. Very often transmission-connected projects have interactions with each other that can affect overall capacity and upgrade requirements.

GENERATORS

The central concerns of generation companies that neither have nor pursuing a FIT contract were related to operational challenges associated with a growing fleet of intermittent renewable energy resources and the growing impact those resources have on surplus baseload generation events. The non-dispatchable nature of key renewable energy resources (solar and wind) combined with lower market demand in the province often results in market inefficiencies such as ramping down of base-load resources (causing damage to conventional generation equipment), inefficient spills of mid-peak hydro resources, and increased wholesale market collection charges. The respondents in this category generally expressed support for a fairer playing field, increased responsiveness to changes in market conditions, and greater responsiveness to price signals. One member recommended reviewing the system and potentially making some FIT projects (for example large-scale, or distributor-connected projects) dispatchable.

RETAILERS, MARKETERS AND WHOLESALERS

The members in this class expressed concern with the impact the existing FIT program has on wholesale and retail markets and the electricity price signal. This group is primarily concerned with the ever-increasing reliance on out-of-market price settlement through the Global Adjustment Mechanism. They indicated that bringing competition back into the sector would improve price signals and incent the building of new generation at a lower cost. Meanwhile, in the absence of a fully competitive market, this group indicated that centralized procurement can still replicate some of the benefits of an open market through competitive procurement mechanisms, especially when it comes to larger projects. Such efforts

should include close coordination with provincial supply planning, market realities, and changes in market demand.

CONSULTANTS

Members in this group are generally supportive of increased reliance on market-based approaches and a level playing field for all businesses. To this extent, this group supports the government's promotion of renewable energy resources and good environmental stewardship. However, it also calls for options that would achieve such objectives at the lowest sustainable cost. Commenting on opportunities for improvements, some members in this group recommended improving coordination between system planning and generation procurement, and excluding industrial and economic development goals from any form of future generation procurement. Other members recommended linking pricing to market conditions.

OTHER SECTOR MEMBERS

There are a number of other issues that some members commented on in respect to implications for the overall climate of competitiveness in the province and international trade disputes created by domestic content rules. Companies that did not have a stake in the program recommended reviewing the system to reduce the role of government in arbitrarily selecting winners and losers and providing generous guaranteed prices backed with ratepayer resources. A few members recommended that fair and transparent competitive processes be put in place for larger projects to ensure there are no sole sourced contracts. Others indicated the need to bring back other available options to promote specific technologies, such as transitional tax credits or rebates.

It was also noted that it is important that the Province continue to support new technologies and foster an environment where emerging technology can be proven before being deployed province-wide. Ontario may want to create an environment where pilot projects are tested within closed looped networks to ensure that concepts and technologies are de-risked and financially sustainable before entering the market. Some members recommended that the government could create similar frameworks for safe experiments when it comes to new renewable technologies.

IV. CONCLUDING REMARKS

The FIT review offers the opportunity to strengthen program rules, adjust pricing schedules and rethink processes to ensure sustainability for both program participants and the sector as a whole. The OEA submission addresses the areas where there is consistent feedback amongst industry players and what the particular concerns of specific sectors are. The OEA urges the government to ensure that the review is transparent, fact-based, and cost-effective and that decisions that come out of this review contribute to a much more focused set of renewable energy objectives, significantly streamlined processes that tie into provincial supply needs, and an enhanced framework that allows energy projects to proceed with minimal or no delays.