

BRIEFING NOTE

Date: February 24, 2016

Subject: BILL 135 re ELECTRICITY PLANNING: OEA ISSUES NOTE

INTRODUCTION

Among the primary aspects of the Energy Statute Law Amendment Act, 2015 (Bill 135) is a rewriting of Ontario's electricity planning process. Electricity planning in Ontario has not proceeded in accord with current legislation.

There are a number of welcome aspects of Bill 135, including:

- **Clarification of how planning will proceed in the future.**

The current status of electricity planning in Ontario, in which the legislative structure for planning is not being followed and there is limited predictability of when or how planning will be done in the future, is unacceptable. Bill 135 seeks to correct that.

- **A broadening of the IESO's procurement authority to include electricity storage.**

Planned and purposeful deployment of electricity storage would facilitate economically and operationally optimal integration of renewable electricity generation into the Ontario electricity system. Facilitating storage technology development and deployment would also develop Ontario's position as a leader in these technologies.

- **A broadening of the IESO's procurement authority to include electricity transmission.**

The IESO is an agency expert in both the operation and development of Ontario's electricity transmission system. Providing the IESO with the express authority to procure electricity transmission planning, development and construction would facilitate a more transparent and independent approach to transmission expansion and reinforcement in Ontario. Properly exercised, this IESO authority could provide commercial economic discipline to future transmission development while encouraging new, competitive entry into Ontario's transmission sector, including by First Nation/utility partnerships.

However, if implemented as drafted, Bill 135 would compromise the Long Term Energy Plan (LTEP) planning process by:

- Effectively constricting the supporting roles of the independent Ontario agencies most expert in planning, development and operation of Ontario’s electricity system; the IESO and the OEB.
- Stopping short of institutionalizing full and open public consultation and review during development of the LTEP.
- Removing from the planning framework a requirement for full and transparent costing of the LTEP, thus failing to institutionalize economic discipline in the formulation and implementation of the plan.
- Inviting the minister of the day to engage in direction of the details of LTEP implementation and electricity system decision making, well beyond the appropriate political role of defining planning objectives, broad parameters and desired outcomes.

RECOMMENDATIONS

Attached is a detailed proposal for amending the Bill 135 language to address the shortcomings noted above. The objectives of the proposed amendments to the bill are explained below.

1. The role of the IESO in the electricity planning process should be strengthened.

The IESO is the agency most expert in the operational and economic parameters of Ontario’s electricity system. A stronger role for the IESO in electricity planning will not only produce a sounder plan, it will also help to “depoliticize” the plan, an objective which the government has repeatedly endorsed.

- The “technical assessment” from the IESO, which the Minister is required to consider, should be expanded to include:
 - Recommendations for action during the planning period.
 - A “costing” of those recommendations, detailing both anticipated costs and benefits associated with the recommendations.

2. The requirements for public consultation during development of the LTEP should be strengthened.

The legislation should ensure that the current Minister's stated objectives for full and frank consultation are expressly reflected in the provisions of the legislated planning framework.

- The consultation provisions should expressly require consultation of, and the opportunity to receive input from, all interested stakeholders (rather than just those whom the Minister deems appropriate to consult).

3. Given the importance of electricity to Ontario's economy and Ontarian's well-being and quality of life, a mechanism should be added for public review of the LTEP.

The current regime contemplates a public review by the OEB. While there are multiple options for public review, a full and open public review is a cornerstone of public acceptability and legitimacy of planning decisions.

- The legislation should provide the option for the Minister to refer all or portions of the LTEP to the Ontario Energy Board (OEB) for a review and report.
 - The legislation could provide authority for the Minister to direct the time within which any such report is to be provided.
 - Such a direction would, in turn, assist the OEB in determining the appropriate review process, however the choice of process should be left to the OEB (whose job includes conducting effective public reviews of energy proposals and plans).

4. Provision should be made for costing the LTEP itself, to ensure economic discipline on the formulation, review and implementation of the plan.

- The Minister should be required to obtain from the IESO a report on the projected costs and benefits associated with the draft LTEP.

5. The Bill should be amended to depoliticize the LTEP process, and in particular the LTEP implementation process.

The legislation should continue to ensure that the government has the means and legislative mandate to fully define the goals and objectives to be realized in the planning

and development of Ontario's electricity system. However, implementation should be left to the government's expert agencies; the IESO and the OEB.

- The directive authorities proposed in the bill should be narrowed so that they do not extend beyond the appropriate planning role for government.
- The implementation provisions of the bill should be revised to maintain the discretions of the IESO and the OEB, while retaining the express requirements that these agencies conduct their activities in a manner which facilitates LTEP implementation.
 - The concept of a report to the Minister from each agency on how it will achieve implementation should be retained.

6. The transmission procurement provisions of the bill should be “depoliticized”.

To ensure a more transparent and independent approach to transmission expansion and reinforcement in Ontario, as well as an approach which could provide commercial economic discipline to future transmission development while encouraging new, competitive entry into Ontario's transmission sector, the approach must be apolitical. De-politicizing transmission procurement would also help to ensure that the “new” Hydro One operates on an appropriate commercial and fiscal footing.

- The bill should be modified to remove/restrain mechanisms currently provided for ministerial micro-management of transmission procurement decisions (i.e. for picking “winners and losers”).