

ONTARIO ENERGY ASSOCIATION

OEA PROPOSED AMENDMENTS TO BILL 135

**AN ACT TO AMEND SEVERAL STATUTES AND REVOKE
SEVERAL REGULATIONS IN RELATION TO ENERGY
CONSERVATION AND LONG-TERM ENERGY PLANNING**

FEBRUARY 24, 2016

To shape our energy future for a stronger Ontario.



Ontario Energy Association

**SCHEDULE 2
AMENDMENTS TO THE
ELECTRICITY ACT, 1998 AND THE
ONTARIO ENERGY BOARD ACT, 1998**

ELECTRICITY ACT, 1998

1. Section 1 of the *Electricity Act, 1998* is amended by adding the following clause:

(a.1) to establish a mechanism for energy planning;

2. (1) The definition of “procurement contract” in subsection 2 (1) of the Act is repealed and the following substituted:

“procurement contract” means a contract entered into by the IESO pursuant to section 25.32, including pursuant to a directive issued under subsection 25.32 (5) or a direction issued under subsection 25.32 (7) or (8); (“contrat d’acquisition”)

(2) Subsection 2 (1.5) of the Act is repealed and the following substituted:

Procurement contracts, transition

(1.5) For the purposes of this Act, a procurement contract is deemed to include,

(a) a contract entered into or assumed, pursuant to section 25.32, before the day section 7 of Schedule 2 to the *Energy Statute Law Amendment Act, 2015* comes into force; and

(b) a contract entered into, pursuant to section 25.35, before its repeal by section 8 of Schedule 2 to the *Energy Statute Law Amendment Act, 2015*.

3. Clause 6 (1) (h) of the Act is amended by adding “electricity storage, transmission systems or any part of such systems” after “electricity capacity”.

4. (1) Subparagraph 2 i of subsection 9 (4) of the Act is repealed and the following substituted:

i. electricity supply, capacity or storage,

(2) Paragraph 2 of subsection 9 (4) of the Act is amended by striking out “or” at the end of subparagraph iii, by adding “or” at the end of paragraph iv and by adding the following subparagraph:

v. transmission systems or any part of such systems.

- (3) The definition of “microFIT program” in subsection 9 (6) of the Act is amended by striking out “that is authorized by a direction issued to the IESO under section 25.35” and substituting “that is continued under subsection 25.32 (10)”.
5. Subsection 25.4 (1) of the Act is amended by adding “and shall, if required by the Minister to do so, examine, report and advise on any question respecting electricity” at the end.
6. The heading to Part II.2 of the Act is repealed and the following substituted:

PART II.2

PLANNING, PROCUREMENT AND PRICING

7. Sections 25.29, 25.30, 25.31 and 25.32 of the Act are repealed and the following substituted:

Long-term energy plans

- 25.29 (1) At least once during each period prescribed by the regulations, the Minister shall, subject to the approval of the Lieutenant Governor in Council, issue a long-term energy plan setting out and balancing the Government of Ontario’s goals and objectives respecting energy for the period specified by the plan.

Same

- (2) For the purposes of subsection (1), a long-term energy plan may include goals and objectives respecting,
 - (a) the cost-effectiveness of energy supply and capacity, transmission and distribution;
 - (b) the reliability of energy supply and capacity, transmission and distribution, including resiliency to the effects of climate change;
 - (c) the prioritization of measures related to the conservation of energy or the management of energy demand;
 - (d) the use of cleaner energy sources and innovative and emerging technologies;
 - (e) air emissions from the energy sector, taking into account any projections respecting the emission of greenhouse gases developed with the assistance of the IESO;

- (f) consultation with aboriginal peoples and their participation in the energy sector, and the engagement of interested persons, groups and communities in the energy sector; and
- (g) any other related matter the Minister determines should be addressed.

Technical reports by IESO

- (3) The Minister shall, before issuing a long-term energy plan under subsection (1), require the IESO to submit a technical report on the adequacy and reliability of electricity resources with respect to anticipated electricity supply, capacity, storage, reliability and demand and on any other related matters the Minister may specify, ~~and the Minister shall,~~

~~(a) — consider the report in developing the long-term energy plan; and~~

Same

(3.1) The IESO's technical report shall include:

(a) recommendations for addressing any of the matters referenced in subsection (3); and

(b) analysis of the costs and benefits of any such recommendations.

Same

(3.2) The Minister shall,

(a) consider the report in developing the long-term energy plan; and

(b) post the report on a publicly-accessible Government of Ontario website or publish it in another manner, before undertaking any consultations under subsection (4).

Review by the Board

(3.3) Prior to issuance, the Minister may refer all or one or more portions of a proposed long-term energy plan to the Board for a review and report.

Same

(3.4) A referral under subsection (3.2) may specify the time within which any report of the Board must be submitted thereunder.

Same

(3.5) The Minister shall,

- (a) consider any report of the Board in developing the long-term energy plan; and
- (b) post ~~the~~any report of the Board on a publicly-accessible Government of Ontario website or publish it in another manner, before undertaking any consultations under subsection (4).

Consultation required

- (4) The Minister shall, before issuing a long-term energy plan under subsection (1), consult with anyall interested members of the public, including any interested consumers, distributors, generators, transmitters, aboriginal peoples or other persons or groups ~~that the Minister considers appropriate given the matters being addressed by the long-term energy plan,~~ and the Minister shall consider the results of such consultation in developing the long-term energy plan.

Notice

- (5) The Minister shall publish notice of consultations under subsection (4), together with any relevant background materials or other information the Minister considers appropriate, in the environmental registry established under section 5 of the *Environmental Bill of Rights, 1993*.

Participation

- (6) The Minister shall take steps to promote the participation of ~~the~~interested persons or groups ~~with whom the Minister intends to consult~~in the consultations required under subsection (4), including,
 - (a) scheduling one or more consultation meetings, where the Minister considers it appropriate to do so, that the persons or groups are entitled to attend in person; ~~and~~
 - (b) providing for the participation of persons or groups in consultations through electronic or other means not requiring personal attendance; and
 - (c) ensuring that all forms of consultation adopted provide the opportunity to provide input into the planning process.

Costing

- (6.1) The Minister shall, before issuing a long-term energy plan under subsection (1), require the IESO to submit a report assessing the costs and benefits of the plan.

Same

(6.2) The Minister shall.

(a) consider the IESO costing report in developing the long-term energy plan; and

(b) post the IESO costing report on a publicly-accessible Government of Ontario website or publish it in another manner, before undertaking any consultations under subsection (4).

Publication

- (7) On issuing a long-term energy plan under subsection (1), the Minister shall post it on a publicly-accessible Government of Ontario website or publish it in another manner, and shall also post or publish any other information, such as key data and cost projections, used in the development of the long-term energy plan that the Minister determines should be made publicly available.

Implementation directives

To the IESO

- 25.30** (1) The Minister may, subject to the approval of the Lieutenant Governor in Council, issue a directive to the IESO ~~setting out the Government of Ontario's requirements~~ to provide to the Minister a plan respecting the implementation of the long-term energy plan by the IESO and any other related requirements, and the date by which the IESO must submit an implementation plan to the Minister under subsection 25.31 (1).

To the Board

- (2) The Minister may, subject to the approval of the Lieutenant Governor in Council, issue a directive to the Board ~~setting out the Government of Ontario's requirements~~ to provide to the Minister a plan respecting the implementation of the long-term energy plan in respect of matters falling within the Board's jurisdiction, and the date by which the Board must submit an implementation plan to the Minister under subsection 25.31 (2).

Amendments

- (3) The Minister may, subject to the approval of the Lieutenant Governor in Council, issue an amendment to a directive issued under subsection (1) or (2).

Same

- (4) An amendment issued under subsection (3) may change or remove requirements or set out new requirements, and shall specify the date by

which the IESO or the Board, as the case may be, must submit a corresponding amendment to its implementation plan to the Minister under subsection 25.31 (3).

Implementation plans By the IESO

- 25.31** (1) On the issuance of a directive under subsection 25.30 (1), the IESO shall, within the time specified in the directive, submit to the Minister an implementation plan containing an outline of the steps the IESO intends to take ~~to meet the~~ respecting the implementation of the long-term energy plan by the IESO and any other related requirements ~~set out in the directive~~ including, if ~~the directive requires it~~ required, the development of processes for entering into procurement contracts, processes for selecting transmitters, or both.

Same

- (1.1) Upon receipt of an implementation plan from the IESO pursuant to subsection (1) the Minister shall post the plan on a publicly-accessible Government of Ontario website or publish it in another manner.

By the Board

- (2) On the issuance of a directive under subsection 25.30 (2), the Board shall, within the time specified in the directive, submit to the Minister an implementation plan containing an outline of the steps the Board intends to take ~~to meet the requirements set out in the directive~~ respecting the implementation of the long-term energy plan by the Board and any other related requirements.

Same

- (2.1) Upon receipt of an implementation plan from the Board pursuant to subsection (2), the Minister shall post the plan on a publicly-accessible Government of Ontario website or publish it in another manner.

If amendment issued

- (3) On the issuance of an amendment to a directive under subsection 25.30 (3), the IESO or the Board shall, within the time specified in the amendment, submit to the Minister a corresponding amendment to its implementation plan.

Amendment proposed by IESO or Board

- (4) If the IESO or the Board wishes to make a change to its implementation plan in order to facilitate the meeting of the requirements set out in the applicable directive or amendment to a directive, the IESO or the Board,

as the case may be, may submit to the Minister an amendment to its implementation plan.

Review by Minister

~~(5) The Minister shall review every implementation plan submitted under subsection (1) or (2) and shall,~~

~~(a) approve the implementation plan, with or without changes; or~~

~~(b) reject the implementation plan and refer it back to the IESO or the Board, as the case may be, for further consideration and resubmission to the Minister.~~

Same

~~(6) Subsection (5) applies with necessary modifications to,~~

~~(a) amendments to implementation plans submitted under subsection (3) or (4); and~~

~~(b) implementation plans or amendments to implementation plans resubmitted to the Minister under clause (5) (b).~~

Procurement contracts Definition

25.32 (1) In this section,

“implementation plan” means an implementation plan submitted by the IESO ~~and approved~~ under clause 25.31 ~~(5) (a1)~~, including any amendments to the implementation plan that are submitted by the IESO ~~and approved under that clause.~~

Entering into contracts

(2) The IESO shall, if required to do so under ~~an implementation plan or~~ a directive issued under subsection (5), and may, if an implementation plan ~~provides the authority to do so~~ submitted to the Minister under section 25.31 so contemplates, enter into contracts for the procurement of,

(a) electricity supply, capacity or storage;

(b) changes in electricity demand;

(c) measures related to the conservation of electricity or the management of electricity demand; or

(d) transmission systems or any part of such systems, including the development of all or part of such systems.

Transmitters

- (3) Despite clause (2) (d), the IESO is not required to enter into a contract under subsection (2) in order to select a transmitter, unless ~~the applicable implementation plan or a~~ directive provides otherwise.

Resolution of procurement contract disputes

- (4) The parties to a procurement contract shall ensure that the contract provides a mechanism to resolve any disputes between them with respect to the contract.

Directives requiring IESO to undertake RFPs, etc.

- (5) The Minister may, subject to the approval of the Lieutenant Governor in Council, issue directives requiring the IESO to undertake any request for proposal, any other form of procurement solicitation or any other initiative or activity that relates to a matter listed in subsection (2).

Same

- (6) In ~~25.31 and, in the event of a conflict, a~~ directive ~~may be~~ issued under subsection (5) ~~regardless of~~ prevails over any long-term energy plan issued under section 25.29, directive issued under section 25.30, or implementation plan ~~approved~~ submitted to the Minister under section ~~25.31 and, in the event of a conflict, a directive issued under subsection (5) prevails.~~ 25.31.

Directions re consultation

- (7) The Minister may direct the IESO to implement procedures for consulting aboriginal peoples or other persons or groups that may be specified in the direction, on the planning, development or procurement of electricity supply, capacity, transmission systems or distribution systems, and the direction may specify the manner or method by which such consultations shall occur and the timing within which such consultations shall occur.

Directions re programs or funding

- (8) The Minister may direct the IESO to establish programs or funding to facilitate the participation and engagement in the electricity sector of aboriginal peoples or any other persons or groups that may be specified in the direction.

Transition, directions

- (9) Any direction issued by the Minister under this section that was in force immediately before the day section 7 of Schedule 2 to the *Energy Statute*

Law Amendment Act, 2015 came into force continues to apply, and any procurement, procedure, measure, program or other thing undertaken, implemented, established, developed or otherwise done in accordance with the direction that is in existence immediately before that day is unaffected.

Transition, feed-in tariff programs

- (10) Despite the repeal of section 25.35 by section 8 of Schedule 2 to the *Energy Statute Law Amendment Act, 2015*, any direction issued by the Minister under section 25.35 that was in force immediately before the day section 8 of Schedule 2 to the *Energy Statute Law Amendment Act, 2015* came into force continues to apply, and any program or other thing established or otherwise done in accordance with the direction that is in existence immediately before that day is unaffected.

Transition, ongoing power to amend, revoke

- (11) A direction continued under subsection (9) or (10) may be amended or revoked by;

~~(a) the Minister, until the day that the first implementation plan submitted by the IESO is approved under clause 25.31 (5) (a); and (b) the Lieutenant Governor in Council, on and after that day.~~

Non-application of *Environmental Assessment Act*

25.32.1 To the extent that any plan, directive, direction or other document issued or otherwise provided under sections 25.29 to 25.32 is an undertaking as defined in the *Environmental Assessment Act*, that undertaking is exempt from that Act.

8. Section 25.35 of the Act is repealed.

9. Subsection 41 (10) of the Act is repealed.

10. (1) Clause 114 (1.3) (a) of the Act is repealed.

(2) Clause 114 (1.3) (b) of the Act repealed and the following substituted:

- (b) governing long-term energy plans, including prescribing periods for the purposes of subsection 25.29 (1);

(3) Clause 114 (1.3) (d) of the Act is repealed.

ONTARIO ENERGY BOARD ACT, 1998

11. Subsection 1 (2) of the *Ontario Energy Board Act, 1998* is repealed.

12. The Act is amended by adding the following section:

Board objectives, implementation plans

2.1 The Board, in exercising its powers and performing its duties under this or any other Act, shall be guided by the objective of facilitating the implementation of any directives issued under subsection 25.30 (2) of the *Electricity Act, 1998* in accordance with the implementation plans submitted by the Board ~~and approved~~ under clause 25.31 (5) ~~(a2)~~ of that Act, including any amendments submitted by the Board ~~and approved under that clause.~~

13. Subsection 28.6 (2) of the Act is amended by striking out “transmission system or distribution system” at the end and substituting “transmission systems, distribution systems or other associated systems”.

~~14. The Act is amended by adding the following section:~~

~~**Directives, transmission systems**~~

~~28.6.1 (1) The Minister may issue, and the Board shall implement directives, approved by the Lieutenant Governor in Council, requiring the Board to take such steps as are specified in the directive relating to the construction, expansion or re-enforcement of transmission systems.~~

~~**Same**~~

~~(2) Subsections 28.6 (2) and (3) apply with necessary modifications in respect of directives issued under subsection (1). 15. Clause 70 (2) (l) of the Act is repealed.~~

15. The Act is amended by adding the following sections:

No leave if covered by licence

97.1(1) In an application under section 92, leave shall not be granted to a person if a licence issued under Part V that is held by another person includes an obligation to develop, construct, expand or reinforce the line, or make the interconnection, that is the subject of the application.

Transition

(2) For greater certainty, an application made, but not determined, before the day section 16 of Schedule 2 to the *Energy Statute Law Amendment Act, 2015* comes into force, is subject to subsection (1).

Leave in the procurement, selection context

- 97.2 (1) In an application under section 92, leave to construct, expand or reinforce an electricity transmission line or to make an interconnection shall not be granted to a person if,
- (a) the IESO has commenced, been directed to commence, or announced a future procurement process for the development, construction, expansion or reinforcement of that line or for the making of that interconnection, and the procurement process has not yet been completed or otherwise terminated;
 - (b) the IESO has commenced, been directed to commence, or announced a future process to select a transmitter for the development, construction, expansion or reinforcement of that line or for the making of that interconnection, and the process has not yet been completed or otherwise terminated;
 - (c) the IESO has completed a procurement process for the development, construction, expansion or reinforcement of that line or for the making of that interconnection, and the person is someone other than the person with whom the IESO has entered into a procurement contract respecting the development, construction, expansion, reinforcement or interconnection; or
 - (d) the IESO has completed a process to select a transmitter for the development, construction, expansion or reinforcement of that line or for the making of that interconnection, and the person is someone other than the selected transmitter.

No hearing required

- (2) If the applicant in an application under section 92 is a person with whom the IESO has entered into a procurement ~~contact~~[contract](#) respecting the development, construction, expansion, reinforcement of the line or the making of the interconnection, the Board may make an order under section 96 without holding a hearing.

Procurement contract

- (3) For the purposes of subsections (1) and (2),
“procurement contract” has the same meaning as in the *Electricity Act, 1998*.

Transition

- (4) For greater certainty, an application made, but not determined, before the day section 16 of Schedule 2 to the *Energy Statute Law Amendment Act, 2015* comes into force, is subject to subsections (1) and (2).

REVOCATIONS

Revocations under the *Electricity Act, 1998*

17. The following regulations made under the *Electricity Act, 1998* are revoked:
1. Ontario Regulation 424/04 (Integrated Power System Plan).
 2. Ontario Regulation 426/04 (IESO Procurement Process).

Revocation under the *Environmental Assessment Act*

18. Ontario Regulation 276/06 (Designation and Exemption of Integrated Power System Plan) made under the *Environmental Assessment Act* is revoked.

COMMENCEMENT

Commencement

19. This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

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Ontario Energy Association

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