

February 11, 2015

The Hon. Joe Oliver  
Ministry of Finance  
90 Elgin St.  
Ottawa, ON K1A 0G5

Dear Minister Oliver,

**Re: Pre-Budget Consultation Follow up**

The Ontario Energy Association (OEA) is writing in follow up to our participation in your government's 2015 pre-budget consultation. At that meeting we noted that a key priority for the OEA and its members is the voluntary consolidation of Ontario's electricity local distribution companies (LDCs). Efforts have been underway for some time in Ontario to encourage consolidation, a process which we believe would create new investment opportunities for energy companies, generate savings for Ontario families and businesses, and continue repositioning the energy sector to support economic growth.

In recent years Ontario's electricity LDCs have been given new obligations in addition to their core distribution business functions (e.g. delivering conservation programs) and are simultaneously facing increasing capital demands owing to population growth, densification of urban centres, and ageing infrastructure. However, municipally-owned LDCs in Ontario have limited financial resources with which to invest in critical infrastructure and thus many would benefit from an infusion of private capital or from voluntary mergers with private entities.

Unfortunately, certain existing tax policy instruments at both the federal and provincial levels continue to deter Ontario LDCs from seeking such arrangements with private-sector partners. In particular, the Income Tax Act (Canada) exempts LDCs that are at least 90% owned by a province or municipality from paying federal income tax, while parallel provincial laws direct such LDCs to instead make equivalent payments in lieu of taxes (PILs) to the Ontario Electricity Financial Corporation.

Should an LDC cease being exempt from paying federal income tax (for example, because a private corporation owns more than 10% of the LDC) Ontario law levies both a departure tax and a transfer tax on the sale, in part to make up for the revenue that would no longer flow to the Ontario Electricity Financial Corporation. These taxes have

effectively prevented the private sector from investing in Ontario's LDCs, and so the OEA is asking for the federal government's assistance in addressing this problem.

Historically, until the legislation expired in 1999, the Public Utilities Income Tax Transfer Act (PUITTA) put privately-owned and publicly owned utilities on the same footing by mandating that the federal government remit to the provinces 95% of the federal corporate income tax paid by privately-held utilities. In other words, the Government of Canada **agreed to forego collection of nearly all income taxes for a period of time from provincially- or municipally-owned public utilities which changed hands**, thereby making provinces indifferent to whether utilities were privately or publicly-owned. The OEA supports the renewal of such an arrangement, has urged the Ontario Government to seek this type of accommodation from the federal government again, and also makes this request of the federal government directly.

Alternatively, the OEA would encourage the Government of Canada to **amend the ownership threshold laid out in the Income Tax Act such that more than 10% of an LDC could be owned by a private entity while still maintaining the LDCs federal tax-exempt status**. This solution could be enacted unilaterally by the Government of Canada and would immediately allow for larger sums of private capital to support vital LDC infrastructure investments while also not diminishing PILs revenue at the provincial level.

We look forward to continuing the dialogue with your government on how changes to the Income Tax Act (Canada) can help create new investment opportunities in Ontario, generate savings for Ontario families and businesses, and continue repositioning the energy sector to support economic growth. If you have questions regarding any of the matters discussed here please contact me or our Vice President of Government Relations and Communications, Tina Arvanitis at 647.920.3269 or [tina@energyontario.ca](mailto:tina@energyontario.ca).

Let's unravel the most complex energy challenges, together.

Best regards,



Bob Huggard  
President and CEO  
Ontario Energy Association

cc: Mr. Paul Rochon, Deputy Minister of Finance