

## Green lighting renewable energy... ONTARIO'S GREEN ENERGY ACT

*February 24, 2009*

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### POLICY UPDATE

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Ontario's proposed Green Energy Act (GEA) takes several bold steps that will, if implemented, have a significant impact on the future of Ontario's electricity system. Since 2003, the McGuinty government has been very active on energy policy issues, with the commitment to replace coal with cleaner and greener forms of electricity, building new generation capacity, and creating a culture of conservation in the province. Through all kinds of policy instruments – Ministerial directives, legislation and regulations, the creation of electricity sector agencies, the launch of programs, and other measures – Ontario has moved in a fairly consistent direction when it comes to energy policy.

The proposed GEA continues along the path established in 2003, but takes a fairly substantial leap forward. Indeed, the GEA (Bill 150) proposes several significant changes that will have an impact on a myriad of stakeholders, including renewable energy developers, renewable energy component manufacturers (both foreign and domestic), municipalities, First Nations, electricity sector agencies, large industrial power users, and indeed, all ratepayers.

Overall, substantial power has been given back to the government and the Minister that ensures that policy decisions rest with Queen's Park. The Minister's directive powers (reasonably strong under existing legislation), have been expanded substantially over the province's electricity sector agencies (namely the Ontario Power Authority, the Ontario Energy Board, and the Independent Electricity System Operator). There are other shifts in the "balance of power" in Ontario's electricity system: local distribution companies will have greater control over their ability to manage conservation programming for their customers; stronger rules around province-wide setbacks for renewable energy projects (particularly wind) will eliminate the ability of municipalities to regulate these projects; and First Nations will have a greater voice and stake in renewable projects in the future.

The following are key aspects of the legislation, as well as things to look for in the days and weeks ahead. The GEA is framework legislation, but several aspects require additional details through regulation and further policy decisions. It is in these areas that policy advocates have an opportunity to influence the government's policy decisions in the near term.

Key aspects of the proposed Green Energy Act include:

**Feed-in-Tariff:** a standard price that will encourage the development of renewable projects, big and small. This essentially would replace Ontario's current RFP procurements for renewable projects by setting an overall feed-in tariff for projects that will encourage renewable energy proponents. It is expected that the OPA will launch consultations within a few weeks that will provide additional details on the tariff, and how the program may work (which could include limits, conditions and timeframes).

**"Domestic content":** the GEA provides the Minister with directive power over the OPA through the Feed-in-Tariff to set domestic content requirements for renewable projects. There is some speculation that this may be imposed by providing additional incentives in the tariff for components that are made in Ontario/Canada (perhaps recognizing that domestically made components have reduced transportation requirements, and lower GHG emissions compared to components that are shipped from Europe).

**"As of right" grid access:** the GEA will establish the right of renewable energy projects to connect to the transmission and distribution systems based on an economic test. This has long been a concern of green energy advocates that delays in connecting to the grid have hampered the viability of community-based projects. The draft legislation goes so far as to indicate that where there is a conflict between a regulation and an OEB order or code, the regulation will prevail.

**Service Guarantees:** a faster "no" is better than a drawn out yes over extended periods of time. The GEA includes service guarantees for Hydro One, Local Distribution Companies and IESO for completion of wire assessments, as well as a coordinated process for Ministry of the Environment and Ministry of Natural Resources permits and approvals processes. Planning Act requirements for renewable energy projects is removed, and the establishment of province-wide setbacks will be created, subject to consultations led by the Ministry of the Environment.

**Transmission upgrades:** the approvals process for transmission projects necessary for new renewable energy sources is also streamlined, along with several measures to facilitate the development of a smart grid for the province.

**Building Code:** energy conservation will become a key purpose of the code, and the code will be reviewed every five years to identify further opportunities to increase energy conservation.

The next several weeks and months provide an important opportunity for stakeholders to get involved in the policy-making process. The legislature will move forward with Second Reading Debate on Bill 150 imminently, and it is expected that a standing committee of the legislature will hold hearings across the province. Meanwhile, the OPA is expected to move forward with consultations on the feed-in-tariff and related issues, with an expectation that the Renewable Energy Standard offer Program can be re-launched by summer.

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## The Campbell Strategies Team

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**Campbell Strategies** provides a broad range of government relations services covering all levels of government. Our unique experience enables us to effectively bridge the gap between the public and private sectors and assist our clients to communicate effectively in the political environment.

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