

Minister of Energy
and Infrastructure

Ministre de l'Énergie
et de l'Infrastructure

Office of the Deputy Premier

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Sept 24, 2009

Mr. Colin Andersen
Chief Executive Officer
Ontario Power Authority
1600-120 Adelaide Street West
Toronto ON M5H 1T1

Dear Mr. Andersen: *Colin*

I write pursuant to my authority as the Minister of Energy and Infrastructure, in order to exercise the statutory powers of ministerial direction which I have in respect of the Ontario Power Authority (the "OPA") under section 25.35 and section 25.32 of the Electricity Act, 1998 (the "EA").

I direct you to develop a feed-in tariff ("FIT") program that is designed to procure energy from a wide range of renewable energy sources. The development of this program is a key element of meeting the objectives of the Green Energy and Green Economy Act, 2009 (the "Green Energy Act") and is critical to Ontario's success in becoming a leading renewable energy jurisdiction.

The objectives of the FIT Program are to:

- Increase capacity of renewable energy supply to ensure adequate generation and reduce emissions
- Introduce a simpler method to procure and develop generating capacity from renewable sources of energy
- Enable new green industries through new investment and job creation
- Provide incentives for investment in renewable energy technologies

The program will be open to technologies that produce electricity from renewable sources including wind, solar photovoltaic ["PV"], bioenergy, and hydro up to 50 MW. It will also recognize the costs associated with promoting First Nations, Métis and community projects.

The feed-in tariff program will be announced on September 24, 2009. Proponents will have to comply with FIT Program rules as set out by the Ontario Power Authority and are subject to all laws and regulations of the Province of Ontario and Government of Canada.

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In setting and re-setting prices in accordance with program rules, the OPA should generally be guided by the principle that the prices should seek to cover the costs that projects of a particular type and size category are generally expected to experience, plus a reasonable return on investment.

FIT Contract

The FIT Program should provide for a 20-year power purchase agreement in respect of all renewable fuels other than waterpower, and a 40-year power purchase agreement in respect of waterpower projects. The contract should require the developer to design, build and operate a renewable generating facility and in exchange should provide for guaranteed, long-term pricing for the output of the renewable generating facility.

Transition from RESOP

In order to assist additional renewable energy projects in achieving commercial operation, the OPA shall offer RESOP contract holders that have not achieved commercial operation the following options for 30 days from the date that applications may be submitted to the OPA under the FIT Program:

1. Rescind their contract and apply for a FIT contract; or
2. For wind projects that have received their Certificate of Approval from the Ministry of the Environment and are able to achieve commercial operation in 2010, an amendment to their contract that will require them to post security and will make other consequential changes, and in return will provide them with the average RES III price of \$121/MWh and the right to retain any ecoEnergy for Renewable Power incentive.

Domestic Content

It is also important that the feed-in tariff program provide an opportunity for Ontario manufacturers to participate in the economic benefits that will flow from the program. Therefore, I direct the OPA to require that each wind power and solar PV project and solar microFIT project contain a defined percentage of domestic content. In order to implement this in a simple and verifiable manner, the FIT Contract should include a standardized method for calculating the level of domestic content in a project.

Domestic content provisions will be enforced through the FIT Contract. Developers who do not achieve the domestic content requirements should be subject to significant commercial consequences under the FIT contract.

I direct the OPA to include in the FIT rules a requirement that the applicant submit a plan for meeting the domestic content goals. This requirement will not apply to microFIT solar projects.

Wind Power

Equipment and expenditures on "balance of plant" will count towards domestic content. "Balance of plant" includes resource assessment, design, transportation, construction materials, services and labour. This includes services such as engineering, legal and consulting studies referable to the renewable energy project. The value of land and operations and maintenance will not count toward the domestic content calculation.

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The amount of domestic content will increase over time:

1. Developers who have a milestone date for commercial operation on or before Dec. 31, 2011 will have to meet a domestic content requirement of 25%.
2. Developers who have a milestone date for commercial operation on or after January 1, 2012 will have to meet a domestic content requirement of 50%.

Solar PV

Equipment and expenditures on "balance of plant" will also count towards domestic content. "Balance of plant" includes resource assessment, design, transportation, construction materials, services and labour referable to the renewable energy project. This includes services such as engineering, legal and consulting studies. The value of land and operations and maintenance will not count toward the domestic content calculation.

The amount of domestic content will increase over time:

1. Developers who have a milestone date for commercial operation on or before Dec. 31, 2010 will have to meet a domestic content requirement of 50%.
2. Developers who have a milestone date for commercial operation on or after January 1, 2011 will have to meet a domestic content requirement of 60%.

Solar PV MicroFIT

Equipment and expenditures on "balance of plant" will also count towards domestic content. "Balance of plant" includes resource assessment, design, transportation, construction materials, services and labour referable to the renewable energy project. This includes services such as engineering, legal and consulting studies. The value of land and operations and maintenance will not count toward the domestic content calculation.

The amount of domestic content will increase over time:

1. Developers who reach commercial operation on or before Dec. 31, 2010 will have to meet a domestic content requirement of 40%.
2. Developers who reach commercial operation on or after January 1, 2011 will have to meet a domestic content requirement of 60%.

Aboriginal and Community Participation

Pursuant to subsection 25.32(4.4) and 25.35 of the EA, I direct the OPA to require in the FIT Program rules that an applicant for a project with a FIT contract must acknowledge the important role that effective consultation with aboriginal communities may play in the successful planning, development and operation of generating facilities and must be prepared to undertake its appropriate role in such consultations and address the interests or concerns of First Nation and Métis communities in good faith and in compliance with relevant laws, regulations and policies.

Pursuant to subsections 25.32(4.5), (4.6) and 25.35 of the EA, I direct the OPA to encourage aboriginal and community projects under the FIT Program by providing security deposit requirements for such projects that are less than the standard levels.

Pursuant to section 25.35 and subsections 25.32(4.5) and (4.6) of the EA, I direct the OPA to establish in the FIT Program's pricing schedule one or more price adders for First Nation and Métis people and for communities. These price adders should be designed to be proportional to the economic interest that the aboriginal or local community applicant has in the project, such that projects in which the applicant has a greater interest attract a larger adder.

Restrictions on Prime Agricultural Land

Pursuant to section 25.35, I direct the Ontario Power Authority, in its FIT Program, not to enter into FIT contracts for energy generated by ground-mounted solar photovoltaic generation facilities greater than 100 kW where those facilities are located on:

- land comprised of Canada Land Inventory Class 1 and 2 soils,
- Specialty Crop Areas within the meaning of the 2005 Provincial Policy Statement.

Procurement of energy generated by ground-mounted solar photovoltaic facilities greater than 100 kW located on lands comprised of Canada Land Inventory Class 3 soils shall not exceed a total of 500 MW (nameplate capacity). Furthermore, I direct the OPA to allocate the procurement of energy generated by ground-mounted solar photovoltaic facilities located on lands comprised of Canada Land Inventory Class 3 soils among the Regional Administrative Boundary Alignments (North, West, East and Central) used by the Ontario Realty Corporation. The allocation shall be based on the proportion of Class 3 soil land found in each region in relation to the total Class 3 soil land in Ontario.

This part of the feed-in tariff direction shall remain effective until such time as a regulation is made under clause 114(1.3)(g.1) of the Electricity Act, 1998 as amended.

Programs Supporting FIT ("Support Programs")

In order to encourage aboriginal community, community group and municipal involvement in the development of renewable energy generation, I direct the OPA, pursuant to subsections 25.32(4.5) and (4.6) of the EA, to establish programs to facilitate the participation of aboriginal communities and community groups and organizations in the development of renewable energy generation facilities. I also direct the OPA, under subsection 25.32(4.7) of the EA, to develop and deliver a program that is designed to reimburse the direct costs incurred by municipalities in order to facilitate the development of renewable energy generation facilities.

Community Energy Partnerships Program

Pursuant to subsection 25.32 (4.6), I direct the OPA to develop and deliver through a third party, a Community Energy Partnerships Program ("CEPP") that will provide financial assistance in the form of grants to community groups that are interested in developing renewable energy generation projects in Ontario that are 10 MW or less in size.

The CEPP should be designed and administered to assist community groups in paying for one time financial assistance of up to \$200,000 for project planning costs, as well as feasibility, environmental and engineering studies associated with the development of a project. Examples of eligible costs would include costs related to:

- o Site investigation and control
- o Resource assessments
- o Business and Financial planning
- o Project management
- o Studies associated with applying for a Renewable Energy Approval

Eligible participants for the program would include:

- one or more Ontario residents developing a renewable energy project that would be greater than 10 kW and less than or equal to 10 MW.
- an Ontario-registered charity or Ontario-based not-for-profit organization.
- A co-op owned by residents of Ontario

Municipal Renewable Energy Program

Pursuant to subsection 25.32(4.7), I direct the OPA to develop and deliver a Municipal Renewable Energy Program ("MREP") to reimburse municipalities for direct costs associated with facilitating the development of renewable energy generation facilities in accordance with the following considerations and guidelines.

The purpose of the Program will be to ensure that municipalities, in hosting renewable energy facilities within their communities, are able to be reimbursed for costs incurred directly as a result of facilitating the development of these facilities. Examples of costs that could be considered eligible under the Program include, but would not be limited to, costs associated with rehabilitation of municipal infrastructure, traffic management, and training of emergency services personnel.

Key principles for the Program include the following:

- All municipalities would be eligible to apply to the Program.
- In seeking reimbursement of costs, municipalities would be required to provide verifiable evidence that the costs were incurred specifically as a result of facilitating the development of renewable energy generation facilities that have a contract under the FIT Program.
- Costs incurred by developers of renewable energy generation facilities would not be eligible for reimbursement through the MREP, for example, to obtain a permit, or other approvals, or for repairs to infrastructure damaged during construction of a facility.
- Municipalities are expected to work with developers to ensure that developers remain responsible for reasonable direct costs incurred in the development of the project. This program is intended for those costs related to the project that the municipality must incur but that could not reasonably be recovered from the developer.
- Municipalities would be eligible to apply to the program at any stage following the issuance of required municipal authorizations such as building permits.
- Applications would only be considered for costs already incurred by municipalities, not for anticipated future costs.
- Ongoing maintenance, operating and staffing costs, would not be eligible.

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It is expected that the OPA will begin development of the Program immediately, and be ready to launch the program by the first quarter of 2010.

Aboriginal Energy Partnerships Program (AEPP)

Pursuant to subsection 25.32 (4.5) of the Electricity Act, 1998, I direct the OPA to develop and deliver an Aboriginal Energy Partnerships Program ("AEPP") that will support the participation of First Nation and Métis communities in renewable energy development in Ontario.

AEPP is to be a program designed to assist First Nation and Métis communities to participate in the development of Ontario's electricity system. The Program will consist of 3 parts to facilitate increasing Aboriginal capacity to participate in developing renewable energy projects, including:

- Support for Community Energy Plans - A Community Energy Plan will allow First Nation and Métis communities to determine local interests, needs and opportunities for renewable energy development and conservation;
- Support through funding of some of the soft costs associated with the development of First Nation and Métis renewable energy projects; and
- Support to establish the Aboriginal Renewable Energy Networks (AREN), to facilitate sharing of knowledge and best practices related to First Nation and Métis renewable energy projects.

The program will be open to Aboriginal communities as defined by the FIT rules. In order to obtain advice and guidance on the development of program details, the OPA will establish an Aboriginal Advisory Committee.

Governance of Programs

Program Delivery

It is my expectation that the OPA will follow a competitive procurement process in selecting a third party to deliver the CEPP or any of the other Support Programs.

Eligibility

It is my expectation that renewable energy projects with multiple partnerships should be encouraged and rewarded, whereby projects with First Nation and Métis participation as well as Community participation will be rewarded with the appropriate percentage of the adder dependent on the extent of their economic interest. If the First Nation and Métis partnership and Community partnership results in a 50% or greater combined equity, the project shall be eligible for only one of the adders.

Audit

It is our expectation that the OPA will establish appropriate policies and procedures with respect to the administration of the Programs including ensuring that program participants are subject to being audited.

Reporting

Beginning in calendar year 2010, the OPA shall include in its annual report an update on the results of the FIT Program and its Support Programs.

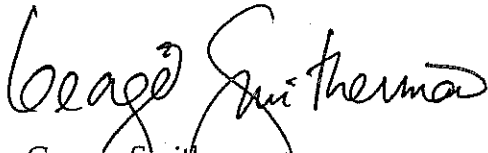
Review

The OPA shall review the FIT Program, including the pricing schedule, and its Support Programs at least once every two years and report to the Minister with results and suggestions for improvement.

Effective Date

This Direction takes effect on the date issued.

Sincerely,



George Smitherman
Deputy Premier, Minister