

focus

on

Electricity Law

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The logo for Fraser Milner Casgrain LLP, consisting of the letters 'FMC' in white on a blue square background.

FRASER MILNER CASGRAIN LLP

ONTARIO AGENCY REVIEW PANEL REPORTS

In December, Ontario Energy Minister Gerry Phillips made public the report on phase II of the work of the Agency Review Panel established earlier in the year to review certain specific issues concerning the five (5) provincial electricity sector institutions:

- Hydro One Inc. (HOI)
- Independent Electricity System Operator (IESO)
- Ontario Power Authority (OPA)
- Ontario Power Generation Inc. (OPG)
- Ontario Energy Board (OEB).

The Panel, which was chaired by James Arnett, Q.C., counsel to FMC in Toronto, issued its report on Phase I in June. This report into executive compensation at the five “agencies” was embraced by then Ontario Energy Minister Dwight Duncan and its recommendations are being implemented. The report can be found on a Ministry website at <http://www.energy.gov.on.ca>.

The Phase II report issued in December dealt broadly with:

- Roles and relationships among the five provincial agencies
- Human resource needs facing the sector

Its recommendations are as follows:

1. That, when it seems reasonable to the Minister to do so, the CDM functions of the OPA be redistributed as follows:

(a) responsibility for designing and administering conservation programs, education and advocacy and assisting in the development of standards for electricity efficiency be transferred to the Ministry of Energy; and

(b) the Chief Energy Conservation Officer be made an officer with sufficient independence to ensure confidence in the numbers being filed with the Minister, detailing Ontario’s progress in meeting its goals relating to the development and implementation of electricity conservation and load management measures.

2. That, when it seems reasonable to the Minister to do so, but probably not before the OEB has completed its current review of the initial IPSP, the balance of the functions of the OPA be combined with those of the IESO into a combined agency.
3. That HOI and the IESO work together to develop a uniform approach to connection assessments that is consistent with the requirements of the Transmission System Code in order to reduce overlap, duplication and inefficiencies, for the benefit of existing and potential consumers.
4. That, to ensure the timely consideration of urgent projects set out in the IPSP or otherwise, the government establish an understanding or protocol among its various ministries and regulatory tribunals to create, on a temporary basis and using existing legislation, a single integrated approvals process for electricity projects based upon existing legislative authorities.

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5. That the government enact legislation that would create a single integrated approvals process for electricity projects on a permanent basis.
6. That the Minister of Energy provide greater clarity as to OPG's role, particularly with respect to:
 - new generation other than hydroelectric;
 - its ability to enter into PPAs; and
 - whether it should be fully, instead of partially, regulated by the OEB.
7. That provincial policies to facilitate the consolidation of LDCs be continued.
8. That the government of Ontario establish an Ontario Electricity Sector Council that would jointly report to the Minister of Energy and the Minister of Training, Colleges and Universities. Members of the Council should include representatives from employers, labour and the education and training bodies. The Ontario Electricity Sector Council could undertake several important activities, including:
 - (a) Ensuring better and more targeted support for laid-off workers, particularly from the manufacturing sector, who need re-training to move into electricity sector jobs.
 - (b) Raising the sector's profile and improving its appeal to students, parents and the broader public.
 - (c) Developing a strategy to expand the labour pool by focussing on under-represented groups.
 - (d) Analyzing in more depth why young women appear to be turning their back on careers in engineering.
 - (e) Coordinating with other provincial bodies to monitor and improve the capacity of the electricity sector to meet the province's needs for reliable power.
 - (f) Coordinating with other provincial bodies to monitor and improve the capacity of the construction sector to meet the province's public infrastructure needs.
 - (g) Ensuring that agencies' investments in education and outreach to increase the available workforce are considered prudent expenditures for the purposes of rate hearings before the OEB.
 - (h) Developing better information on the retention rates at universities and colleges and the success of apprenticeship programs in Ontario and, together with the results from annual performance reports, addressing specific concerns that these data may reveal.

Minister Philips was broadly receptive to, but cautious about, the recommendations.

As to the OPA, he said "Now is not the time to implement institutional change in the sector. At the same time, the report makes prudent and helpful suggestions for the future as the sector develops." He was later quoted as saying "there may very well be some merit" in this recommendation.

As to the recommendation for a single integrated approvals process for electricity projects, the Minister indicated that he was not prepared to bring forward legislation now, and did not comment on the recommendation for a temporary solution based upon existing authorities. As this was a major concern expressed to the Panel by the industry, it will be interesting to see how the Minister proceeds.

Meanwhile, he said that he would continue to work very closely with OPG to provide ongoing clarity including with respect to its role in new generation.

Aside from the specific recommendations, the report provides a description and analysis of how the Ontario Electricity sector and market works.