

# Comments to the Standing Committee on General Government re: **Bill 135, *The Energy Statute Law Amendment Act, 2015***

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## Introduction

Thank you for the opportunity to address this important piece of legislation. My name is Mark Winfield, and I am an Associate Professor of Environmental Studies at York University here in Toronto. I am also Co-Chair of the Faculty's Sustainable Energy Initiative (SEI) (<http://sei.info.yorku.ca/>).

Established in 2009, SEI builds and strengthens research, education and skills for students and professionals in energy efficiency and conservation, renewable energy sources, smart grids, energy storage and community energy planning. Specifically SEI:

- provides research and analysis to advance policies, projects and practices that encourage and support a transition to a sustainable energy economy and resilient communities;
- supports undergraduate and graduate student teaching and research, including the BES Certificate in Sustainable Energy, to educate and train the new cohort of sustainable energy entrepreneurs, social innovators, policy-makers, and community activists;
- builds and strengthens partnerships among educational institutions, government agencies, business and industry, and non-governmental organizations through research, knowledge mobilization, and field experiences; and
- provides learning opportunities for professionals to enhance their knowledge of leading edge research and practice about sustainable energy solutions.

I have followed the evolution of the province's approach to electricity system planning since the concept of system planning was reintroduced through the *Electricity Restructuring Act* in 2004. I have published a number of articles and papers on the

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subject of electricity and energy system planning in Ontario. Some of these are listed at the end of my submission. A copy of my most recent paper, for a forthcoming book on sustainability assessment, has been provided to the committee. I have also provided a copy of a 2013 article I had published in the *Ottawa Citizen* about the gas plant cancellation scandal, and the failures in the province's planning processes which those events highlighted.

I was to have appeared as an expert witness before the one and only Ontario Energy Board (OEB) review of an Integrated Power System Plan (IPSP) developed by the Ontario Power Authority. However that hearing was terminated before I was able to testify. I did appear as a contextual witness before the Standing Committee on Justice in its study of the gas plan cancellation scandal.

### **Bill 135**

The proposals for energy system planning being advanced through Bill 135 are not new. They were first proposed in April 2012 through Bill 75, the *Ontario Electricity System Operator Act, 2012*. The principal purpose of that legislation was to merge the OPA and the Independent Electricity System Operator (IESO) into a single entity. However, it also contained provisions related to electricity system planning similar to those in the current Bill 135. Bill 75 died on order paper when Premier McGuinty prorogued the Legislature upon his resignation in October 2012.

The electricity system planning process established through the 2004 *Electricity Restructuring Act* created and mandated the OPA to develop Integrated Power System Plans (IPSPs) for the province's electricity system. These plans were then subject to review and approval by the OEB on the basis of their cost-effectiveness and "prudence." Ontario Regulation 277/06 under the *Electricity Act* required that the OPA demonstrate to the OEB that it had "considered sustainability," "environmental protection," and "safety" in the development of the plan.

At its core, Bill 135 would abandon even this very limited structure for the public review of proposed system plans. System plans would be developed by the Minister of Energy and approved by the cabinet. The OEB and IESO would then be required to implement these plans. There would be no requirement for review and approval by the OEB.

In my view this is an unwise proposal in terms of energy policy, economic policy, and environmental policy. Indeed, legislation suggests that the government has learned little from the gas-plant cancellation fiasco.

Electricity system plans are the largest single infrastructure investment programs pursued by the province. They carry major economic and environmental risks flowing from the technological and system design choices embedded within them. System

plans may result in the over- or under-building high cost infrastructure in periods of high levels of economic uncertainty. Economic uncertainty implies ambiguity about the future direction of electricity demand.

Electricity system plans can also embed risks of technological lock-in. These risks are particularly significant given the current rate of technological development in areas related to smart grids, energy storage, renewable energy technologies and distributed energy systems. In fact, some argue that we are experiencing what may be the most significant period of technological innovation in the electricity sector since the emergence of electric utility systems a century ago.

Bill 135, if adopted, would mean that electricity system plans and their contents would be subject to no meaningful external review before the OEB and IESO are required to proceed with their implementation. Specifically, there would be:

- No review of the plans' economic rationality, cost-effectiveness or prudence review through OEB;
- No review of the plans' environmental impacts and risks under the *Environmental Assessment Act* or other comparable processes;
- No review of the plans in terms of their resilience and ability to adapt to changing economic, environmental, social or technological circumstances; and
- No opportunities for non-governmental stakeholders (NGOs, industry, consumers, others) to identify, examine and challenge key assumptions underlying the plans, the data on which they are based, or to highlight the risks they may embed.

In pursuing this approach, the legislation effectively abandons the notion of rational planning in the electricity system. Instead, the long-term design and management of the system will be treated as a political matter.

## **Conclusions**

Ontario needs a rigorous, independent public review of its electricity system plans before they are finalized and moved towards implementation. Plans need to be developed by the IESO or another appropriately mandated body, in a manner which responds to specific directions and criteria laid out in legislation. Plans then need to be subject to external public review and approval, by a body with appropriate economic, environmental and technical expertise. Without such a framework the finances, energy security and environment of Ontario residents and electricity ratepayers will continue to be at risk.

### Suggested Amendments:

Given my concerns with the overall structural approach to electricity system planning in Bill 135, I can only offer some very limited amendments. These emphasize the need to advance sustainability, address economic prudence and risk, ensure resilience and ability to adapt to changing economic, environmental, technical and social circumstances, avoid risks of catastrophic events, advance energy efficiency and renewable energy sources, and ensure appropriate consultation, in the development of system plans.

#### Part II.2: Planning, Procurement and Pricing

##### s.25.29 (2)

##### System goals

(2) For the purposes of subsection (1), a long-term energy plan ~~may~~ shall include goals and objectives respecting,

(a) the cost-effectiveness and prudence of the plan for energy supply and capacity, transmission and distribution;

(b) the reliability of energy supply and capacity, transmission and distribution.

c) the resilience of the electricity system to changes in economic, environmental and technical conditions, including the effects of climate change;

d) the minimization of system vulnerability to risks due to catastrophic events, and technology failures; avoidance of risks of extreme events

(e) the prioritization of measures related to the conservation of energy or the management of energy demand;

(f) the use of clean/renewable energy sources and innovative and emerging technologies;

(g) emissions and discharges of contaminants and the generation and management of wastes the energy sector, including the generation of greenhouse gases and of very difficult to manage and long-lived waste streams; effects on biophysical and socio-biophysical systems and the provision of ecosystem goods and services

(h) 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

(i) any other related matter the Minister determines should be addressed.

### **Attachments:**

Winfield, M., "Electricity Planning and Sustainability Assessment: The Ontario Experience," for R.B. Gibson, ed., *Sustainability Assessment: Applications* (London: Earthscan). Submitted July 2015.

Winfield, M., "What lessons should Ontario draw from the gas-plant cancellation scandal?" *Ottawa Citizen*, May 13, 2013.

### **Articles and Book Chapters on Ontario Electricity Issues**

Winfield, M., "Ontario's Green Energy and Green Economy Act as an Industrial Development Strategy" for S.McBride and C. Carla Lipsig-Mummé eds., *Work and the Challenge of Climate Change: Canadian and International Perspectives* (Kingston and Montreal: McGill-Queens University Press, 2015).

Winfield, M., and Dolter, B., "Energy, Economic and Environmental Discourses and their Policy Impact: The Case of Ontario's Green Energy and Green Economy Act." *Energy Policy* 68 (2014) 423-435.

Winfield, M., Mulvihill, P., and Etcheverry, J., "Strategic Environmental Assessment and Advanced Renewable Energy in Ontario: Moving Forward or Blowing in the Wind?" *Journal of Environmental Assessment, Planning and Management*, Vol.15, No.2, June 2013.

MacWhirter, R., and M.Winfield, "Competing Policy Paradigms, Hard Path Inertia, and the Search for Sustainability in Ontario Electricity Policy." Working paper, Sustainable Energy Initiative, York University, 2012.

<http://sei.info.yorku.ca/files/2013/03/CompetingParadigms-03-12-2013.pdf>

Winfield, M., Gibson, R., Markvart, T., Gaudreau, K. and Taylor, J., "Implications of Sustainability Assessment for Electricity System Design: The case of the Ontario Power Authority's Integrated Power System Plan," *Energy Policy*, 38 (2010) 4115-4126.