

Ministry of Energy

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MC-2013-1450

JUN 12 2013

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

Dear Mr. Andersen:

RE: Renewable Energy Program

The Ontario government is committed to ensuring that a clean, reliable and sustainable supply of electricity is developed through processes that encourage local participation and respect communities. Going forward, the following changes will be made to the Feed-in Tariff (FIT) Program:

- Supporting the long-term sustainability of the FIT Program by setting annual procurement targets of 150 megawatts for Small FIT and 50 megawatts for microFIT for each of the next four years.
- Replacing the Large FIT program with a new competitive procurement process and working with municipalities and Aboriginal communities to help identify appropriate locations and siting requirements.
- Providing potential new economic development and revenue opportunities for municipalities and public sector entities by strengthening their participation in the Small FIT program. Public sector entities are publicly funded schools, public colleges, public universities, hospitals, publicly-owned long-term care homes, public transit services and Metrolinx.

Direction

Pursuant to the authority I have, as Minister of Energy, under sections 25.32 and 25.35 of the *Electricity Act, 1998*, I hereby direct the Ontario Power Authority to continue the FIT Program developed pursuant to the direction issued September 24, 2009, and amended by subsequent directions, subject to such further amendments as may be required in order to implement the policies set out below.

Future Procurement of Renewable Energy Projects

Price Review

In October of each year, in consultation with the Ministry of Energy, the OPA shall consult about the price schedules. Following consultation, the OPA shall update the price schedules and shall publish the updated schedules in November of each year to be effective January 1st of the following year, per the April 5, 2012 direction.

microFIT

The OPA shall continue to procure renewable energy capacity under the microFIT program (10 kW and under). In each of the next four years, starting in 2014, the OPA will award up to 50 MW under the program. Upon publishing the updated price schedule for 2013, the OPA shall award up to 30 MW under the microFIT program. This will allow microFIT procurement to continue in 2013 before the 2014 target is in effect. If the full annual microFIT MW procurement target is not allocated in a given year, the remaining capacity will be added to the microFIT MW procurement target to be procured in the following year.

Small FIT

The OPA shall continue to procure renewable energy capacity in the form of Small FIT Projects under the FIT Program¹. The OPA shall launch another application window in Fall 2013 for up to 70 MW of Small FIT Projects. If there is unused capacity from the 200 MW procurement target in the Small FIT window that closed on January 18, 2013, this unused capacity shall be added to the 70 MW target for Fall 2013. The OPA shall simultaneously launch the pilot program for rooftop solar projects on un-constructed buildings with the Fall 2013 Small FIT window.

For clarity, the 70 MW procurement target is in addition to the 15 MW of capacity reserved for the pilot program for rooftop solar projects on un-constructed buildings (per the July 11, 2012 direction) and the 10 MW procurement target for the municipal program stream for hydroelectric projects (per the January 21, 2013 direction).

Furthermore, in each of the next four years, starting in 2014, the OPA will award up to 150 MW of contracts for Small FIT Projects. If the full annual Small FIT MW procurement target is not allocated in a given year, the remaining capacity will be added to the Small FIT MW procurement target in the following year.

Further to recommendations provided by the Association of Municipalities of Ontario during the FIT two-year program review, the OPA shall amend the FIT Program to encourage participation from municipalities as set out further below in this direction under the headings "Encourage Participation by Municipalities and Public Sector Entities" and "Contract Capacity Set-asides". The amended program will be in effect for the Fall 2013 Small FIT application window.

¹ As currently provided in the FIT Program, a Small FIT Project is a capacity allocation exempt small embedded generation facility which has a name-plate rated capacity that is greater than 10 kW and is 250 kW or less in the case of a facility connected to a less than 15 kV line and is 500 kW or less in the case of a facility connected to a 15 kV or greater line.

Large FIT

The OPA shall not procure any additional MW under the FIT Program for Large FIT projects (i.e., projects that are larger than Small FIT projects) and shall begin to develop a competitive process for procurement of large renewable energy capacity. In developing the competitive process, the OPA shall engage with municipalities to help inform the identification of appropriate locations and siting requirements for future renewable energy projects. The OPA shall also engage with and consider input provided by stakeholders and Aboriginal communities as it develops the process and report back to me with interim recommendations by September 1, 2013.

It is the government's expectation that this engagement will support the development of a competitive procurement process for large renewable energy projects that takes into account local needs and considerations before contracts are offered. A Minister's direction will be issued at a later date to authorize the commencement and content of a competitive procurement following the completion of the Long-Term Energy Plan review.

The OPA shall permit Ontario Power Generation to compete in this procurement process.

The OPA shall discontinue Large FIT Project applications submitted prior to the date of this direction and in relation to which a contract offer had not been made. The OPA shall return the application fee and application security that had been paid in relation to these discontinued applications. The OPA shall include discontinued applicants in its stakeholder engagement regarding the competitive process noted above.

Encourage Participation by Municipalities and Public Sector Entities

To further support local participation, the OPA shall revise the FIT Program for Small FIT Projects to provide municipalities and public sector entities with incentives under the Program similar to incentives currently provided to communities, as follows:

- a. To incorporate the revised prioritization points system in accordance with Appendix A.
- b. To incorporate contract capacity set-asides as set out further below in this direction under the heading "Contract Capacity Set-asides".
- c. To provide that projects with the eligible municipal or public sector entity equity participation level shall receive the same applicable price adders as those provided to projects with an equivalent Community Participation Level (as per the Appendix B in the April 5, 2012 direction). These projects shall also be eligible for reduced security payment requirements.

In recognition of the government's goal for broad participation by municipalities and public sector entities, the OPA shall ensure that the site access requirements for municipalities or public sector entities with a minimum of 15% equity interest or hosting a project are compatible with applicable public sector procurement legislation and directives, while continuing to ensure that all FIT applicants demonstrate sufficient site access rights to build, operate and maintain their projects.

The OPA shall provide municipalities and public sector entities with access to funding for costs associated with the development and design of their Small FIT Projects, similar to funding available under the Community Energy Partnerships Program (CEPP) and the Aboriginal Energy Partnerships Program (AEPP). The Ministry remains committed to these programs and a subsequent direction will provide details on amendments to the programs to align them with the FIT Program changes described in this direction. In the interim, the OPA shall proceed to provide municipalities and public sector entities with access to funding for costs associated with the development of their Small FIT applications similar to funding currently available under the programs.

Contract Capacity Set-asides (CCSA)

For the next 2013 Small FIT application window, the OPA shall provide CCSAs for projects involving greater than 50 per cent equity participation from municipalities or public sector entities (24 MW), communities (12 MW), and Aboriginal communities (12 MW). Consistent with the apportionment of the Aboriginal community CCSA as specified in the November 23, 2012 Direction, 8 MW will be provided to applications with greater than 50 per cent First Nation equity participation and 4 MW for those applications with greater than 50 per cent Métis equity participation.

The OPA shall provide projects involving greater than 50 per cent equity participation from municipalities or public sector entities with access to a 50 MW CCSA for Small FIT Projects for each of the next four years. In addition, the OPA shall provide projects involving greater than 50 per cent equity participation from communities with a 25 MW CCSA and projects involving greater than 50 per cent equity participation from Aboriginal communities with a 25 MW CCSA for Small FIT Projects in each of the next four years. The OPA shall further apportion the Aboriginal community CCSA as specified in the November 23, 2012 direction.

If a MW procurement target is not fully allocated in a given year, the OPA shall apportion the remaining capacity for projects, involving greater than 50 per cent equity participation, as follows: municipalities or public sector entities (1/3 of MW), communities (1/6 of MW), and Aboriginal communities (1/6 of MW).

Within any FIT application window, the OPA shall prioritize over any other applications that obtain prioritization points in accordance with Appendix A, the applications of those projects that have a greater than 50 per cent equity participation level by municipalities, public sector entities, communities and Aboriginal communities in accordance with the contract-capacity set asides outlined above. The OPA shall offer contracts to these projects before offering contracts to other projects in the application window.

The provisions of the April 5, 2012 and July 11, 2012 directions that apply to community and Aboriginal community projects that are awarded prioritization points or prioritization as a CCSA project for having the necessary participation level also apply to municipality and public sector entity projects prioritized in the same manner. This direction amends the April 5, 2012 and July 11, 2012 directions to include "municipalities and public sector entities" wherever requirements applicable to the FIT contract pertaining to reduction of equity interest prohibitions or cure periods for community and Aboriginal community projects are specified.

In awarding FIT contracts in any application period, the OPA shall offer contracts to the CCSA projects first until the CCSA target for each category of set-aside is reached, or until there are no more projects that are eligible for the CCSA in such category.

Once the CCSA for projects with greater than 50 per cent municipal, public sector, community or Aboriginal equity participation has been allocated or once all such applications have been processed, the OPA will then no longer prioritize projects with greater than 50 per cent municipal, public sector entity, community or Aboriginal equity participation over any other applications and will proceed to process applications for all projects based on prioritization points as set out in the points system in Appendix A to this direction, which may include municipal, public sector entity, community or Aboriginal projects.

Domestic Content

The Appellate Body of the World Trade Organization (WTO) recently issued rulings in two WTO disputes involving the FIT program, which rulings were adopted by the WTO members on May 24, 2013. It is the Ministry's desire and intent that the FIT program be brought into compliance with these rulings. As such, the Ministry intends to pursue the necessary legislative steps and other steps to achieve this outcome. Subject to the approval of the Legislature, I expect that this would affect the domestic content requirements in new FIT program procurements launched after May 24, 2013. I intend to issue further direction to the OPA at a later date with respect to these domestic content requirements.

Connecting Constrained microFIT Projects

The OPA shall sign Power Purchase Agreements (PPA) with Constrained Applicants who have Combined Projects within 30 days after a successful result from the Transmission Availability Test (TAT) and the Distribution Availability Test (DAT). The OPA shall provide the Constrained Applicants with a draft PPA within 15 days of the date of this direction. It is my expectation that as complete applications are submitted, the TAT and DAT tests will be completed as soon as possible. For clarity, the OPA shall conduct the TAT and DAT tests as each application is received. Since this procurement initiative commenced in August 2011, these Combined Projects will be subject to the requirements for domestic content which took effect on January 1, 2011.

The OPA shall ensure that any PPA signed by a Constrained Applicant whose aggregate capacity exceeds 200 kW contains a condition precedent that all Constrained Projects that have a Constrained Applicant who has purchased generation equipment for the Constrained Project must be remediated and provide documentation to the satisfaction of the OPA.

The OPA shall apply the same agricultural land protections, land use restrictions and project siting requirements to Combined Projects (as that term is defined in the August 19, 2011 direction) as those that currently apply to FIT contracts.

Without limiting the generality of the foregoing, for the purposes of paragraph 2 of the August 19, 2011 direction, "New Property" shall be limited to the same agricultural land protections, land use restrictions and project siting requirements contemplated by the April 5, 2012; July 11, 2012 and November 23, 2012 (as amended by the December 11, 2012 direction) directions.

"Constrained Applicants", "Combined Projects" and "New Property" have the same meaning as given to those terms in the August 19, 2011 direction as amended.

Aboriginal Projects on Reserve Lands

The government is committed to supporting Aboriginal community participation in the development of FIT projects. The government also recognizes the desire of First Nation communities to take advantage of local economic development opportunities on reserve lands. In acknowledgement of the unique and significant land control challenges facing Aboriginal FIT projects on reserve lands, the OPA shall offer a four year extension to the Milestone Date for Commercial Operation in existing Large FIT (as that term is used in this direction) contracts for Aboriginal Participation Projects where the generating facilities are located entirely on reserve lands.

General

This direction supplements previous directions related to the FIT Program, the microFIT Program and FIT Support Programs and replaces provisions of these previous directions only to the extent that a particular provision of this direction is inconsistent with a provision of a previous direction.

This direction takes effect on the date issued.

Sincerely,



Bob Chiarelli
Minister

APPENDIX A

PRIORITIZATION TABLE

Applicant Type	Points
A project in which a municipality or public sector entity (publicly funded schools, public colleges, public universities, hospitals, publicly-owned long-term care homes, public transit services and Metrolinx) has a minimum 15% equity interest	3
A project in which a local community has a minimum 15% equity interest held by a co-op with 35 or more property owners who live in the municipality where the project is located.	3
A project in which an Aboriginal community has a minimum 15% equity interest	3
Other Applicants	0
Additional Points	
Local Municipal Council Support Resolution	2
Aboriginal Community Support Resolution	2
A project in which a municipality or public sector entity are a project host	2
System Benefit (water and bioenergy)	1

Priority between projects that have an equal number of points shall be determined based on each project's timestamp.

The OPA shall not offer a project a FIT contract if the project does not have at least one (1) prioritization point.

Municipality is defined as a municipal corporation. There are 444 municipalities in Ontario organized into Regions, Counties, Districts and Single-Tiers. A project can only obtain points as one applicant type. For greater clarity, a single project cannot be eligible for more than 3 points under the applicant type category.

A publicly-owned long term care home is a municipal home, joint home or First Nations home as provided for under the *Long Term Care Homes Act, 2007*, S.O. 2007, c.8.

Public transit service is defined in the *Employment Standards Act, 2000*, Ont. Reg 390/05.