

**Ministry of Energy**

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APR 05 2012

MC-2012-1071

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

Dear Mr. Andersen:

**RE: Feed-in Tariff Program Review**

The government is committed to implementing the recommendations outlined in *Ontario's Feed-In Tariff Program, Two-Year Review Report*. I acknowledge the work of the Ontario Power Authority during the two-year review. To ensure the long-term sustainability of renewable energy while creating more jobs, lowering prices and giving communities a greater say, the government is committed to the timely implementation of all the recommendations, which include:

- Reducing prices – for solar projects by more than 20 per cent and wind projects by approximately 15 per cent.
- Encouraging greater community and Aboriginal participation through a new priority point system, which will also prioritize projects with municipal support.
- Reserving a minimum of 10 per cent of remaining capacity for projects with significant participation from local or Aboriginal communities.

The province's Long-Term Energy Plan (LTEP) and the February 17, 2011 "Supply Mix Directive" established Ontario's target for clean, renewable energy from wind, solar and bioenergy at 10,700 MW (excluding hydroelectric) and 9,000 MW of hydroelectric by 2018. Ontario is on track to procure 10,700 MW of non-hydro renewable energy generation by 2015. Ontario will continue to grow the clean energy economy through the continuation of the FIT and microFIT programs.

**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 (OPA) to continue the Feed-in Tariff (FIT) and microFIT programs developed pursuant to the direction issued September 24, 2009 subject to such amendments as may be required in order to implement the policies set out below:

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### **Continuing the Commitment to Clean Energy**

As a first step, the OPA shall begin by awarding 50 MW of microFIT and 200 MW of small FIT projects as soon as possible.

At the end of 2013, the government will review Ontario's electricity supply and demand forecast to explore whether a higher renewable target is warranted.

### **Encouraging Greater Community and Aboriginal Participation**

The OPA shall amend the FIT Program Rules to encourage publicly-funded school, hospital, publicly-owned long-term care home, public university, public college, Aboriginal and community participation by prioritizing applications through a points system in accordance with the document set out in Appendix A.

In offering contracts for small and large FIT projects, the OPA shall allocate of the available capacity:

- i. a minimum of 100 MW for projects with greater than or equal to 50 per cent community and Aboriginal equity participation; and
- ii. a minimum of 50 MW for hydroelectric projects.

During the term of the FIT Contract, with respect to any facility that is not a rooftop solar photovoltaic project that has been awarded points under the prioritization process based on applicant type, a change shall be prohibited if such change would mean that an economic interest in the project (including a local participation level as set out in Appendix A) would drop below the level that resulted in the project receiving the applicant type points that it did in the prioritization process. The FIT Contract shall provide that, if such a prohibited change takes place from the contract effective date and during the term of the contract, it shall constitute a ground for termination of the contract. For additional clarity, the change restrictions contemplated by this paragraph shall not apply to rooftop solar photovoltaic projects.

With respect to rooftop solar photovoltaic projects, a change to any such project that has been awarded points under the prioritization process based on applicant type prior to the fifth anniversary of the commercial operation date shall be prohibited by the FIT Contract if such change would mean that an economic interest in the project (including a local participation level as set out in Appendix A) would drop below the level that resulted in the project receiving the applicant type points that it did in the prioritization process. The FIT Contract shall provide that, if such a prohibited change takes place from the contract effective date and up to five years after commercial operation, it shall constitute a ground for termination of the contract.

### **Support Programs**

The Ministry of Energy remains committed to providing support for community participation through the Community Energy Partnerships Program (CEPP). The CEPP program administrator and the Ministry of Energy will make recommendations regarding the program rules and eligibility criteria of the CEPP to the OPA. I direct the OPA pursuant to subsection 25.32(4.6) of the *Electricity Act, 1998* to redesign the CEPP program rules and eligibility criteria taking into account those recommendations. The CEPP shall be re-launched by July 1, 2012.

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In order to encourage continued Aboriginal participation in the electricity sector, I direct the OPA, pursuant to subsection 25.32(4.5) of the *Electricity Act, 1998*, to amend the Aboriginal Energy Partnerships Program (AEPP) to align with the goal of prioritizing Aboriginal participation in the FIT Program. The OPA shall expand eligibility for the AEPP to include projects developed pursuant to the Green Energy Investment Agreement. The OPA shall amend the Aboriginal Renewable Energy Fund to focus on supporting projects in the design, development and regulatory approvals phases. The OPA shall establish a minimum eligibility threshold for projects with Aboriginal equity participation of at least 15 per cent where the project is smaller than 100 MW and of at least 10 per cent where the project is equal to or larger than 100 MW.

### **Protecting Agricultural Lands**

The OPA shall not enter into FIT contracts for ground-mounted solar photovoltaic generation facilities greater than ten (10) kW, or amend an existing FIT contract for a facility greater than ten (10) kW to relocate the facility location, where those facilities are proposed to be located on or relocated to a site that contains:

- Land with any Class 1, 2 and 3 soils or a mix of those soils as they appear on the Canada Land Inventory Agricultural Capability Maps published by the Ontario Ministry of Agriculture, Food and Rural Areas and Agriculture and Agri-Food Canada
- Land comprised of organic order soils as it appears on the Canada Land Inventory Agricultural Capability Maps published by the Ontario Ministry of Agriculture, Food and Rural Areas and Agriculture and Agri-Food Canada
- Specialty Crop Areas within the meaning of the Provincial Policy Statement as amended from time to time

### **Strengthening Land Use Rules**

The OPA shall not enter into FIT or microFIT contracts for ground-mounted solar photovoltaic generation facilities or for wind generation facilities up to and including 3 kW where those facilities are located on property that:

- Is zoned to permit residential use; or
- Borders a property zoned to permit residential use.

This restriction does not apply to property that is zoned for agricultural use where residential use is permitted as ancillary to the agricultural use.

The OPA shall not enter into FIT or microFIT contracts for ground-mounted solar photovoltaic generation facilities where those facilities are proposed to be located on property that:

- Is zoned for commercial or industrial use but where no such use is occurring; or
- Is zoned for commercial or industrial use and where the solar ground-mount photovoltaic generation facility is or will be the main or primary purpose for which the property is used.

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### **Improving Municipal Engagement**

The OPA shall allocate \$100,000 annually of CEPP funding for guidance and outreach purposes related to the municipal role in renewable energy development with the Association of Municipalities of Ontario (AMO). This allocation shall be reviewed in 2013.

The OPA shall not launch the Municipal Renewable Energy Program given new and existing initiatives that support municipal input and participation.

### **Reducing Prices to Reflect Lower Costs**

The OPA shall amend the FIT Program Rules to establish pricing for a project at the time the project is offered a contract.

The OPA shall use the price schedules and adders published in the FIT Review Report and included in this direction as Appendix B with the new FIT and microFIT Program Rules. 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 1<sup>st</sup> of the following year. During the annual price review in 2012, the OPA shall review price escalation for inflation in new FIT contracts to determine if adjustments are required.

The requirement that the OPA conduct the annual price review described above shall amend and replace the requirement in the direction of the Minister of Energy dated September 24, 2009 for a review of the FIT Program and its Support Programs and report to the Minister at least every two years.

For new large FIT projects, the OPA shall amend the FIT contract to provide for greater generator accountability in circumstances where generation must be dispatched off.

### **Transitioning to new FIT and microFIT Rules**

The OPA shall develop and implement a transition process to provide an opportunity for suppliers with existing FIT contracts to withdraw from the FIT Program and have their security returned.

In relation to:

1. microFIT applications submitted on or after September 1, 2011 and prior to the date of this direction; and
2. FIT applications submitted prior to the date of this direction and in relation to which a contract offer had not been made (both 1 and 2 the “Pre-Existing Applications”);

the OPA shall develop and implement a transition process to provide an opportunity for a Pre-Existing Application to be revised in accordance with the process and eligibility requirements in the new FIT and microFIT Rules (as applicable) as amended pursuant to this direction.

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The OPA shall provide such transition opportunity during the first available application window applicable to the type project applied for in the Pre-Existing Application to be revised (i.e. microFIT, small FIT and large FIT). Subject to limits in the FIT Rules and microFIT Rules on (i) when a revised application must be submitted, and (ii) the type of revisions to a Pre-Existing Application, a revised Pre-Existing Application shall be entitled to retain its original timestamp. The OPA shall discontinue Pre-Existing Applications that are not revised during the first applicable application window or that are withdrawn by the applicant. The OPA shall return the application fee and application security that had been paid in relation to the Pre-Existing Application.

### **Defining microFIT Participation**

The OPA shall not award an individual or farmer (as those terms are defined in the OPA's microFIT Eligible Participant Schedule) more than one microFIT contract. The OPA shall amend the microFIT Eligible Participant Schedule to include farming co-operatives whose members are limited to farmers and require a farming co-operative to locate a microFIT project on the property of a member of the co-operative. The OPA shall not launch the Commercial FIT (CFIT) Program.

### **Connecting Constrained microFIT Projects**

In implementing the August 19, 2011 "Constrained microFIT Projects" direction, the OPA shall:

1. Only allow those Constrained Applicants (as defined in the August 19, 2011 direction) to exercise an option identified in that direction if the Constrained Applicant identifies in writing its interest in one of the options to the OPA no later than May 31, 2012, following the posting of this direction on the OPA's website;
2. Only consider a microFIT project applicant that submitted a complete application prior to December 8, 2010 to be a Constrained Applicant if the applicant made an application for connection to the applicable Local Distribution Company by August 19, 2011 and was denied connection;
3. For the purposes of paragraph 2 of the August 19, 2011 direction, the other conditions and requirements that may be included in a power purchase agreement include the requirement for the Constrained Applicant to take such actions as the OPA considers appropriate to remediate Constrained Projects (including of other Constrained Applicants) where the Constrained Applicant had purchased its generation equipment;
4. Where a power purchase agreement includes remediation requirements, the OPA shall provide the price in the Conditional Offer for the Constrained Project only if the Constrained Applicant carries out the remediation requirements.
5. For the purposes of paragraph 2 of the August 19, 2011 direction, "New Property" shall be limited to the same agricultural land protections and land use restrictions contemplated by this direction; and

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6. For the purpose of paragraph 1 and 3 of the August 19, 2011 direction limit the relocation of Constrained Projects to another location in Ontario subject to the land use restrictions contemplated by this direction.

### **Clarifying Transmission and Distribution**

To promote efficient use of land and resources for connection infrastructure, I direct the OPA pursuant to subsections 25.35 and 25.32(4.4) of the *Electricity Act, 1998* to work with the Ministry of Energy, consult with stakeholders and revise the FIT Rules to provide a limit with respect to the distance between a project site and its connection point on the existing transmission or distribution grid.

The OPA shall make the FIT Program transmission availability tables publicly available and shall update the tables on a regular basis.

The OPA shall subject small FIT projects to system availability testing similar to the method used for larger projects.

The OPA shall revise the FIT Rules to permit FIT Contract offers to be made to projects where upgrades are not required to the transmission system or where only minor upgrades are necessary.

Given the transmission projects planned through the Long Term Energy Plan and changes to the FIT Program, the OPA shall not run the Economic Connection Test.

### **Reducing Delay**

The OPA shall change the FIT Contract to provide for a milestone date for commercial operation for FIT rooftop solar photovoltaic projects of eighteen (18) months.

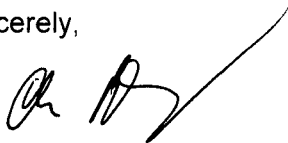
### **General**

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. For greater certainty, nothing in this direction changes the effect of the August 19, 2011 “Constrained microFIT Projects” direction other than the “Constrained microFIT Projects” provisions.

It is my 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 audit.

This direction takes effect on the date issued.

Sincerely,



Chris Bentley  
Minister

## APPENDIX A

### PRIORITIZATION TABLE

Applicant Type	Points
A project in which a local community has a minimum 15% equity interest held by a co-op with, in the case of large FIT projects, 50 or more property owners who live in the municipality where the project is located. In the case of small FIT projects, 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
A project in which publicly-funded schools, public colleges, public universities, hospitals and publicly-owned long-term care homes have a minimum 15% equity interest or that are a project host	2
Other Applicants	0
<b>Additional Points</b>	
Local Municipal Council Support Resolution	2
Aboriginal Community Support Resolution	2
Project Readiness	
<ul style="list-style-type: none"> <li>Applicants for wind, solar ground-mount, bioenergy and waterpower projects on Aboriginal Reserve, Federal land or private land have sufficient space for the project and a firm lease, firm option to lease/purchase, or ownership of the land</li> <li>Solar rooftop applicants either own the host building or if they do not own the host building have proof of firm site control in the form of a firm lease or option to lease</li> </ul>	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 any prioritization points.

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.

## APPENDIX B

### FIT PRICE SCHEDULE

Fuel	Project Size Tranche	Price (¢/kwh)	Escalation Percentage**
Solar Rooftop	≤10 kW	54.9	0%
	> 10 ≤ 100 kW	54.8	0%
	> 100 ≤ 500 kW	53.9	0%
	>500 kW	48.7	0%
Solar Groundmount	≤ 10 kW	44.5	0%
	> 10 kW ≤ 500kW	38.8	0%
	> 500 kW ≤ 5 MW	35.0	0%
	> 5 MW	34.7	0%
Wind	All Sizes	11.5	20%
Water	≤ 10 MW	13.1	20%
	> 10 MW ≤ 50 MW	12.2	20%
Biomass	≤ 10 MW	13.8	50%
	> 10 MW	13.0	50%
Biogas On Farm	≤ 100 kW	19.5	50%
	100 kW ≤ 250 kW	18.5	50%
Biogas	≤ 500 kW	16.0	50%
	> 500 kW ≤ 10MW	14.7	50%
	> 10 MW	10.4	50%
Landfill Gas	≤ 10MW	11.1	50%
	> 10 MW	10.3	50%

\*\*Escalation Percentage based on the Consumer Price Index will be applied to eligible Renewable Fuels as calculated in FIT Contract. The Base Date is January 1 of the year in which the Project achieves commercial operation, unless the Project achieves commercial operation in October, November or December, in which case the Base Date is January 1 of the following year.

### FIT PRICE ADDERS

	Aboriginal Projects		Community Projects	
Participation Level (Equity)	>50%	>15% ≤50%	>50%	>15% ≤50%
Price Adder (¢/kWh)	1.5	0.75	1.0	0.5

Note: The above table applies to all FIT project sizes and all technologies except rooftop solar.