

July 19, 2006

The Hon.L.Broten
Minister of the Environment
135 St.Clair Ave W.
Toronto, Ontario
M4V 1P5

Re: EBR Registry Notice XA06E0006 – *Environmental Assessment Act* Designation and Exemption of the Ontario Power Authority Integrated Power System Plan.

Dear Minister,

I am writing on behalf of the Pembina Institute in response to the above *Environmental Bill of Rights* posting regarding the regulation made on June 12, 2006 designating and then exempting the Integrated Power System Plan (IPSP) to be developed by the Ontario Power Authority (OPA) from the requirements of Ontario's *Environmental Assessment Act* (Ontario Regulation 276/06).

As you know, the Pembina Institute was provided with a legal opinion by the Canadian Environmental Law Association (CELA) that made clear that the IPSP is subject to an environmental assessment under the Ontario *Environmental Assessment Act*. In our view, the government has offered no substantive justification for its decision to exempt the plan from the Act.

The IPSP to be developed by the OPA under the terms of the Minister of Energy's June 13, 2006 directive has major environmental, economic and social implications for present and future generations of Ontarians. The plan will involve major choices regarding the environmental, social, economic and health risks and costs associated with the provision of electricity in Ontario. An environmental assessment, as was conducted with respect to the 1989 Ontario Hydro Demand Supply Plan, would be the best way to gain an understanding of the risks and costs associated with the OPA's proposed plan, and the viability of alternatives to it.

A number of the commentators, including the Pembina Institute and the City of Toronto's Medical Officer of Health, have noted that the methodology employed by the OPA to assess the environmental implications of its December 2005 supply mix advice recommendations upon which the Minister of Energy's June 13 directive was largely based, was deeply flawed. The OPA's assessment overlooked major environmental impacts and

risks associated with certain supply options, particularly nuclear power. In addition, the weighting system used to compare the environmental characteristics of the energy options, was not balanced appropriately placing, with little or no justification, a heavy weighting on greenhouse gas emissions relative to other impacts, such as waste generation or water pollution.

The Pembina Institute does not believe that the direction provided to the OPA to “ensure that safety and economic and environmental sustainability and environmental protection are reflected in the (IPSP)” via regulation Ontario regulation 277/06 provides, in any way, a substitute for an environmental assessment under the *Environmental Assessment Act*. Unlike the Act, this approach fails to provide for an evaluation of the impacts of the proposed plan and alternatives to it by an objective decision-maker, following an open and comprehensive review of evidence and assumptions.

Nor can the environmental assessment of individual facilities under federal or provincial legislation function as a meaningful substitute for an assessment of the overall IPSP of which they form part. Indeed, the most significant questions that would arise with respect to an individual facility - need and the availability of alternatives - can only be answered in the context of the overall plan. The Institute also notes that current practice by federal responsible authorities under the *Canadian Environmental Assessment Act* with respect to nuclear facilities, in particular, has been to scope environmental assessments very narrowly, and to not permit interveners in hearings to directly cross-examine the evidence presented by project proponents.

The Pembina Institute believes that regulation 276/06 should be withdrawn, and that a full environmental assessment of the OPA IPSP conducted under the Ontario *Environmental Assessment Act* for these reasons.

I would be pleased to discuss this matter with you, your staff or your officials.

Yours sincerely,



Mark S. Winfield, Ph.D.
Director, Environmental Governance

Cc: The Hon.D.McGuinty, Premier of Ontario.
The Hon.D.Duncan, Minister of Energy.
Gordon Miller, Environmental Commissioner of Ontario.

Blair Rohaly, Project Manager, Ministry of the Environment.