



Sustainable Energy Solutions

**Submission to the Standing Committee on Justice
Regarding
Bill 21: The *Electricity Conservation Responsibility Act,*
2005**

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The Pembina Institute welcomes the opportunity to address the Standing Committee on Justice regarding Bill 21, the *Electricity Conservation Responsibility Act, 2005* introduced into the Ontario Legislature on November 3, 2005.

The Pembina Institute supports in principle the underlying goals of Bill 21 – to improve the energy efficiency of the Ontario economy. However, we are concerned by the apparent absence of any formal consultation on the proposed legislation's contents. The Institute also has a number of specific concerns with the content of the Bill. These are as follows:

Schedule A, Section 3

This section would permit the Lieutenant Governor in Council to designate goods, services and technologies, to remove any restriction imposed by law that would restrict their use.

Although the provision is well-intentioned, apparently being designed to allow restrictions on the use of energy efficient goods, services and technologies, such as municipal by-laws against outdoor clotheslines, to be set aside. However, the drafting of this section is extremely broad. It does not take into consideration the possibility that, in some cases, restrictions may be in place for valid health, safety or environmental reasons.

Recommendation

A clause should be added to Schedule A, section 3 of Bill 21, stating that in designating goods, services, and technologies under the section, the Lieutenant Governor in Council shall have due regard for the protection of public health, safety and the environment.

Schedule B – Smart Metering Entity

Schedule B of Bill 21 provides for the creation of a "Smart Metering Entity" for the purpose of implementing the province's 'smart metering' initiative.

The Pembina Institute is concerned by the lack of clarity regarding the institutional form that the entity is to take, as indicated by the provisions of s.53.7. The institutional nature of the entity should be clarified before legislation is enacted regarding its role and powers.

Among other things, the “entity” is to be provided with extensive powers to gather information from individual households and businesses (e.g. s.53.8(2.), s.53.14 and s.53.15). However the legislation contains no privacy protections, and sets no limits on what the “entity” can do with the information. Provisions regarding access to information are also noticeably absent.

Recommendation

Bill 21 should designate the “Smart Metering Entity” as a designated “institution” for the purposes of the Freedom of Information and Protection of Privacy Act.

Similarly, as the “entity” is not to be an agent of the Crown the provincial auditor and Ombudsman would have no jurisdiction over its operations (s.53.9).

Recommendation

The provincial auditor should be identified as the corporate auditor of the “smart metering entity.”

The Pembina Institute notes that Bill 21 provides the basis for some components of an overall energy efficiency strategy for Ontario. However, the Institute remains seriously concerned about the province’s lack of overall progress in the area of improving the energy efficiency and productivity of Ontario’s society and economy. The Institute’s concerns in this regard were highlighted in a study, published in conjunction with the Canadian Environmental Law Association last month, reviewing Ontario’s progress in the areas of energy efficiency, low impact renewable energy and replacement of coal-fired generation. A copy of the study, entitled *Towards a Sustainable Electricity System for Ontario: A Provincial Progress Report*, is attached for your information.

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