

Torys' Video Podcast Series

March 2009

Ontario Introduces Green Energy Legislation: Implications for Cap-and-Trade and GHG Emission Review in Ontario

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Patricia Koval discusses Ontario's proposed *Green Energy and Green Economy Act, 2009* and the implications for GHG emissions and cap-and-trade systems in Ontario.



Edited transcript

The proposed new *Green Energy Act* [the Act] and the consideration that led up to it do have important implications for GHG [greenhouse gas] emissions reporting and for the development of a cap-and-trade system in Ontario.

First, the Act includes a proposed amendment to the Ontario *Environmental Bill of Rights Act* to require the Environmental Commissioner to produce a new report on the activities in the province to reduce GHG emissions. Under the proposed Act, that first report will be due by the end of 2009.

Second, although the Act doesn't specifically address this, our conversations with the regulators indicate that under the proposed new feed-in tariff system, which is part of the proposed new *Green Energy Act*, it is contemplated that the Ontario Power Authority will continue to purchase power under terms under which it retains all of the environmental attributes and emissions credits associated with that power.

While we understand that this was the subject of some considerable study, we understand that the rationale for continuing it is that the province will require these credits in order to meet its own emissions-reductions targets by 2014. The province, of course, has committed to phase out coal by that time and to reduce its emissions 6% below its 1990 levels by 2014. If this is the case, then renewable-energy producers who sell their power through the Ontario Power Authority will not be able to keep their emissions credits or environmental attributes. Instead, only those power producers who sell power outside OPA will be able entitled to retain those credits.

The Act doesn't specifically assist in defining how renewable energy is going to be treated under the Western Climate Initiative, in which Ontario is participating, or under Ontario's own proposed cap-and-trade system, which it released for comment in a discussion paper that it tabled in December 2008.

By way of background, the Western Climate Initiative is a multisector, multiregion initiative in which Ontario, Quebec, British Columbia and Manitoba are participating, along with seven U.S. states. The plan under the Western Climate Initiative, which was actually released in September 2008, with a further Work Plan released in February of this year, is to have a cap-and-trade system underway by January 1, 2012, with a mandatory reporting system underway one year earlier on January 1, 2011. Both the Western Climate Initiative and Ontario – under its own proposed cap-and-trade plan – propose to place a specific cap on emissions from electricity generators over a specified threshold.

WCI announced in its Work Plan that it tabled in February 2009 that its Electricity Committee will be specifically studying the treatment of renewable energy under the cap-and-trade system that they are proposing. In particular, they're going to be looking at the prospect of setting aside allowances, and it's expected that this report will be tabled by the end of the third quarter of 2009. Ontario, for its part, is also going to be looking specifically at the question of renewable energy under its own system. The December 2008 discussion paper specifically asked for comments as to how renewable energy should be treated, as well as how non-fossil-fuel-producing energy and energy efficiency should be treated.

So the bottom line is that we're going to be watching the developments in the green energy and climate change cap-and-trade space very closely over the coming months. **T**