Key takeaways from Ontario's Affordable Energy Act

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Advancing electrification and affordability in Ontario

On Dec. 4, 2024, Bill 214 the *Affordable Energy Act,* 2024, received Royal Assent. On the same date, many of the operative provisions of the Act came into force.

Introduced by Ontario Minister of Energy and Electrification Stephen Lecce on Oct. 23, 2024, this Act has three important schedules that outline its amendments:

1. Schedule 1: Amendments RE Energy Planning;
2. Schedule 2: Amendments RE Distribution System Code and Transmission System Code; and
3. Schedule 3: Amendments RE Electric Vehicle Charging.

Minister Lecce explained that Bill 214 would "enable the implementation of the province's first integrated long-term energy plan with a focus on affordability. It would also prioritize zero-emission nuclear energy to meet growing energy demand, expand programs to help families and businesses save money and energy, support EV adoption and, as well, reduce last-mile connection costs."

This article covers the key amendments and schedules of Bill 214 and highlights important takeaways for organizations that may be impacted or interested in pursuing energy projects in Ontario.

Background

Ontario's growing energy demand has emerged as a defining public policy challenge for the provincial government. As part of its efforts to address this, the government unveiled its vision for its energy future in October 2024 through Ontario's Affordable Energy Future: The Pressing Case for More Power. This strategy, bolstered by the Independent Electricity System Operator's (the IESO) 2025 Annual Planning Outlook projections of a 75 per cent increase in electricity demand by 2050, driven not only by population growth but also by industry, vehicle electrification and data centres.

This has spurred many policy initiatives in Ontario, including a recent expansion of the ongoing LT2 procurement.

The *Affordable Energy Act*, 2024 enacts parts of this vision into legislation. It aims to balance affordability, resiliency, and reliability with an integrated approach that reflects Ontario's complex energy system, which includes a mix of electricity and natural gas systems. This Bill intends to "enable the implementation of the province's first integrated long-term energy plan with a focus on affordability."

Schedule 1 – Amendments RE Energy Planning

Schedule 1 of Bill 214 contains numerous amendments to the *Electricity Act, 1998* (the *Electricity Act*) and a consequential amendment to the *Ontario Energy Board Act, 1998* (the *Ontario Energy Board Act).* These can be broken down into four main elements:

1. Amending the purpose of the *Electricity Act, 1998* "to promote electrification and facilitate energy efficiency measures aimed at using electricity to reduce overall emissions in Ontario";
2. Similarly amending the objectives of the IESO;
3. Replacing "long-term energy plans" with "integrated resource plans" and making other necessary amendments to account for this change; and
4. Repealing the need for submissions of implementation plans by the IESO or the Ontario Energy Board (OEB) to the Minister.

Notably, the amended section 25.29(2) of the *Electricity Act, 1998* states that:

For the purposes of subsection (1), an integrated energy resource plan may include goals and objectives respecting,

a. *the affordability of energy for consumers and the cost-effectiveness of planned energy resources;*
b. *the availability and reliability of the supply, transmission or distribution of energy to consumers;*
c. *the enhancement and expansion of energy infrastructure and resources to support economic growth and trade;*
d. *the role of electricity, natural gas, hydrogen and other energy resources, as well as energy efficiency, storage and demand management, in building a clean energy economy;*
e. *the prioritization of nuclear power generation to meet future increases in the demand for electricity in a manner that is consistent with the policies of the Government of Ontario;*
f. *the modernization of energy infrastructure systems and promotion of innovations that benefit consumers;*
g. *the cost-effective procurement of electricity resources;*
h. *the advancement of reconciliation with Indigenous communities, including early engagement in project planning, consultation and support for Indigenous leadership and participation in the energy sector;*
i. *the engagement of interested persons, groups and communities in the energy sector; and*
j. *any other related matter the Minister determines should be addressed.*

Section 25.29(3) of the *Electricity Act, 1998* requires the Minister to consult with consumers, distributors, generators, transmitters, Indigenous communities, etc. (and consider the results of the consultation) before issuing an integrated energy resource plan, which consultations must begin on or before the fifth anniversary of the previous plan's issuance.

Finally, it is worth noting that the reference to submitting an implementation plan under section 25.30(2) has been removed and section 25.31 - which previously set out the requirement to submit implementation plans by both the IESO and the OEB to the Minister (when directed) - has been repealed.

Schedule 2 – Amendments RE Distribution System Code and Transmission System Code

Schedule 2 of Bill 214 introduces regulatory amendments to the *Ontario Energy Board Act, 1998* meant to play a significant role in shaping 'last mile' electricity connections. With a focus on addressing Ontario's growing housing demand, these amendments recognize that affordability and scalability are closely tied to the cost of developing electricity infrastructure for new housing projects.

Schedule 2 of Bill 214 "gives the Lieutenant Governor in Council two new regulation-making authorities pertaining to the Distribution System Code and the Transmission System Code that are issued by the chief executive officer of the Board under section 70.1 of the *Ontario Energy Board Act*."

Pursuant to section 70.4 of the *Ontario Energy Board Act*, 1998 the Lieutenant Governor in Council may make regulations that specify amendments to both the Distribution System Code and the Transmission System Code (for the purposes of this section) concerning:

1. Obligations between distributors or transmitters and their customers regarding cost allocation and cost recovery relate to the construction, expansion or reinforcement of distribution systems or transmission systems, or of connections to those systems.
2. Provisions that must be included in an agreement that is entered into by a distributor or transmitter and a customer that pertains to cost allocation and cost recovery relating to the connection of a customer to the distributor's distribution system or the transmitter's transmission system.
3. Any matter ancillary or consequential to a matter referred to in paragraph 1 or 2.

Pursuant to section 70.5 of the *Ontario Energy Board Act, 1998* allows the Lieutenant Governor in Council to make regulations:

a. Exempting any person or thing, or any class of person or thing, from the application of any provision of the Distribution System Code or the Transmission System Code that,
    1. pertains to cost allocation or cost recovery, or
    2. is ancillary or consequential to a provision of the Code that pertains to cost allocation or cost recovery;
b. Providing for conditions or restrictions of an exemption under clause (a);

c. In respect of a person or thing that is the subject of an exemption under clause (a), establishing and governing the cost allocation or cost recovery that applies with respect to the person or thing instead of the provision that has been exempted from.

Utilities faced with a new section 70.4 or 70.5 regulation should consult with legal counsel promptly to ensure they are held harmless from such a new regulatory change.

The amendments under section 70.5 also state that a regulation may be general or particular in its application, and that in the event of any conflicts between the regulations made under section 70.5, any other regulations made under the *Ontario Energy Board Act, 1998* an order of the Ontario Energy Board, or a code issued under section 70.1 of the *Ontario Energy Board Act*, *1998* the regulation made under section 70.5 prevails to the extent of the conflict.

Schedule 3 – Amendments RE Electric Vehicle Charging

Electric vehicle adoption is expected to drive 31 per cent, *or 20 TWh,* of Ontario's new energy demand by 2035, necessitating robust charging infrastructure. Charging infrastructure for millions of new electric vehicles is needed, and Schedule 3 of Bill 214 addresses this need by streamlining regulatory definitions.

Specifically, Schedule 3 amends several Acts relating to electric vehicle adoption, including the *Ontario Energy Board Act*, *1998* the *Electricity Act*, *1998,* and the *Energy Consumer Protection Act, 2010*.

The *Ontario Energy Board Act, 1998* was amended by including the following definitions under the new Part V.2 Electric Vehicle Charging (section 88.5):

1. "electric vehicle" means, subject to the regulations, a vehicle that has its motive power wholly or partly provided by electricity stored in a battery or other electricity storage device in the vehicle that is capable of being charged from an electricity source external to the vehicle; ("véhicule électrique")
2. "electric vehicle charging" means, subject to the regulations, the supply of electricity from an electric vehicle charging station to an electric vehicle in order to charge the vehicle; ("recharge des véhicules électriques")
3. "electric vehicle charging station" means, subject to the regulations, an electricity supply device, including any associated equipment, technologies and components, that is used to supply electricity to charge an electric vehicle. ("station de recharge pour véhicules électriques").

These same definitions are also incorporated into the *Electricity Act, 1998* and the *Energy Consumer Protection Act, 2010*.

The amendments go on to specify that, except for Part VIII of the *Electricity Act, 1998*, the *Ontario Energy Board Act, 1998*, the *Electricity Act, 1998* and the *Energy Consumer Protection Act, 2010* each do "not apply with respect to the distribution or retail of electricity for electric vehicle charging, except as may be provided by the regulations"[1]

The effect of these changes is largely to remove electric vehicle charging from Ontario's electricity regulatory framework.

Key takeaways

The authors have long advocated that an affordable, reliable and resilient energy transition necessitates a broader integrated approach to energy system planning in Ontario. The amendments contained in Schedule 1 of Bill 214 represent an important first step in the right direction. It will be interesting to see what trade-offs occur as part of this integrated planning approach.

Schedule 2 of Bill 214 introduces a new element of complexity into often difficult and contentious assessment of cost responsibility for new and modified connections to the transmission or distribution system. The Transmission System Code and Distribution System Code set out a series of rules that are premised on considered public interest trade-offs. The author expects that it will be difficult to re-perform this trade-off analysis each time a new regulation is issued that determines that a particular customer, or group of customers, should not bear the costs of a particular connection. Who will bear this cost? Utilities will not likely accept material incremental costs without certainty of recovery from other customers.

Finally, Schedule 3 of Bill 214 simplifies the legal analysis that owners and operators of EV charging infrastructure must undertake for the Ontario installations. While it may not immediately result in new chargers, it does help to reduce regulatory burden and red tape for businesses trying to install and operate EV chargers.

[1] Section 47.2(1) of the *Electricity Act*, section 34.2(1) of the *Energy Consumer Protection Act, 2010*, and section 88.6(1) of the *Ontario Energy Board Act, 1998*.

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