

RENEWABLE ENERGY DEVELOPMENT: A GUIDE FOR MUNICIPALITIES

Updated for FIT 2.0



A publication of
The Renewable Energy Facilitation Office
Ministry of Energy

HIGHLIGHTED TEXT AND TEXT BOXES

Within each section of the guide, you will see certain paragraphs that have a municipal icon beside them. This has been done in order to highlight information that is of particular interest or relevance to municipalities.

In addition, in a series of text boxes throughout the document you will find additional clarification of terms or information specific to the information covered in that section.



Information of interest or relevance to municipalities is indicated with an icon.

Additional clarification of terms or information specific to the information covered in a section is contained with text boxes.

To assist in developing new renewable energy projects, the province has established the **Renewable Energy Facilitation Office (REFO)**, which is a resource where individuals, communities and municipalities with projects of all sizes can obtain information and connect with the appropriate government and agency resources.

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The information in this guide is based on rules, regulations and policies as of December 10, 2012. We recommend you confirm with REFO or the Ontario Power Authority if there have been any additional program changes.

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1.0 INTRODUCTION



Ontario is one of North America's leaders in the production of clean and renewable energy. A key focus of Ontario's future energy generation plan is "distributed generation", which is efficient localized generation from smaller, cleaner sources of electricity. The province has set a target of 9,000 megawatts (MW) of hydroelectric capacity by 2030¹ and 10,700 MW of non-hydroelectric renewable capacity (wind, solar, and bioenergy) by 2018. By the end of 2014, Ontario will be one of the first jurisdictions in the world to eliminate coal as a source of electricity production.

Activities generated by the *Green Energy and Green Economy Act, 2009 (GEGEA)* have helped launch a clean energy manufacturing base in the province. The GEGEA enacted the *Green Energy Act, 2009 (GEA)* and amended over 16 other Acts. As well, the GEA gives Ontario families, communities, and businesses the opportunity to participate in building the province's clean energy economy through the ground-breaking **Feed-in Tariff (FIT) program**.

Since it was introduced, the FIT program has resulted in about 1,800 small and large FIT contracts and about 25,000 microFIT contracts, together representing more than 4,800 MW of electricity generation capacity. In addition, 28,000 clean energy jobs have been created to date by Ontario's clean energy policies and we are on track for creating more than 50,000 jobs.

This guide is an update to "Renewable Energy Development: A Guide for Municipalities", which was produced in 2011 to help municipalities understand their role in the development process under the initial FIT program (known as FIT 1.0). To ensure the FIT program continues to be a catalyst for development of renewable energy and job creation, the province undertook a thorough program review and has made some changes to the program rules. One objective of the review was to increase municipal engagement.

As a result, "FIT 2.0" provides municipalities with increased opportunities to be involved in the renewable energy development process. This includes the ability to exert greater influence with developers seeking valuable municipal support of their FIT application and more opportunities to be informed about proposed projects. As well, FIT 2.0's siting rules help ensure that development is balanced with local planning priorities.

This guide explains many of the key changes introduced by FIT 2.0 that we believe are of particular interest to municipalities and provides an overview of the overall renewable energy development process.

¹ The targets are discussed in the Long-Term Energy Plan, which can be found at: <http://www.energy.gov.on.ca/en/ltep/>

1.0 INTRODUCTION

1.1 MUNICIPALITIES AND RENEWABLE ENERGY DEVELOPMENT

The province recognizes that municipalities are key partners in helping Ontario become a leader in clean energy. The role municipalities play in renewable energy development can include any, or a combination of, the following:

- participating as a developer, or partnering with developers in projects– through such action municipalities directly benefit from the safe, long-term electricity contracts that the FIT program offers;
- encouraging developers to work with local economic development committees to support use of local resources and opportunities;
- providing comments and input on project design through the regulatory consultation process;
- authorizing the use of municipal property for projects;
- entering into financial agreements with developers to ensure the municipality is compensated for expenses resulting from the project, such as potential impacts on municipal infrastructure, or any needs for changes in municipal services;
- providing municipal council support for projects, which may help these projects move forward.



The role of municipalities in relation to renewable energy projects has evolved as a result of important changes under FIT 2.0 and because the Renewable Energy Approval (REA) process has replaced previous legislation and processes that governed approval of renewable energy projects, including the *Planning Act*.

As a result of these changes, municipalities may be wondering, for example:

- how to respond to public inquiries about renewable energy development;
- what the relationship is between a developer getting a contract and the Renewable Energy Approval (REA) process;
- what their role is in the REA process;
- how best to ensure they recover any costs they may face in relation to renewable energy development;
- how they interact with the new FIT 2.0 program;
- how they can develop and own renewable energy projects directly; etc.

This guide provides answers to these questions.

In the renewable energy process, getting a FIT contract is not the only issue of concern to developers, nor is it the only step that municipalities need to understand. There are a number of discrete streams involved in the renewable energy process.

To help clarify the role of municipalities in renewable energy development it is useful to also understand:

- how renewable energy projects get developed;
- the FIT program; and
- the permitting and approval processes for renewable energy projects.

1.0 INTRODUCTION

1.2 HOW TO USE THIS GUIDE

Municipalities can use this guide to gain an overview of the renewable energy development process, or as a reference to find answers to specific questions they may have or that they may be asked to respond to.

Here is what you will find in each section of the guide:

SECTION 1/INTRODUCTION

- Information about Ontario’s commitment to renewable energy and the important role municipalities play in helping the province meet its renewable energy goals.

SECTION 2/THE DEVELOPMENT PROCESS

- Overview of the development process for renewable energy projects

SECTION 3/THE FIT PROGRAM

- Description of the FIT program, including:
 - its history;
 - program eligibility rules;
 - the FIT contracting process;
 - the priority point system for contract awarding; and
 - the contract launch meeting.

SECTION 4/THE REGULATORY PROCESS

- Overview of the regulatory process, including:
 - Renewable Energy Approval (REA);
 - Class Environmental Assessment (EA) for Waterpower;
 - Environmental Activity and Sector Registry (EASR);
 - various approvals and permits administered by the Ministry of Natural Resources;
 - Ministry of Transportation approval;
 - federal requirements; and
 - municipal-specific regulatory matters.

SECTION 5/MUNICIPAL ECONOMIC DEVELOPMENT

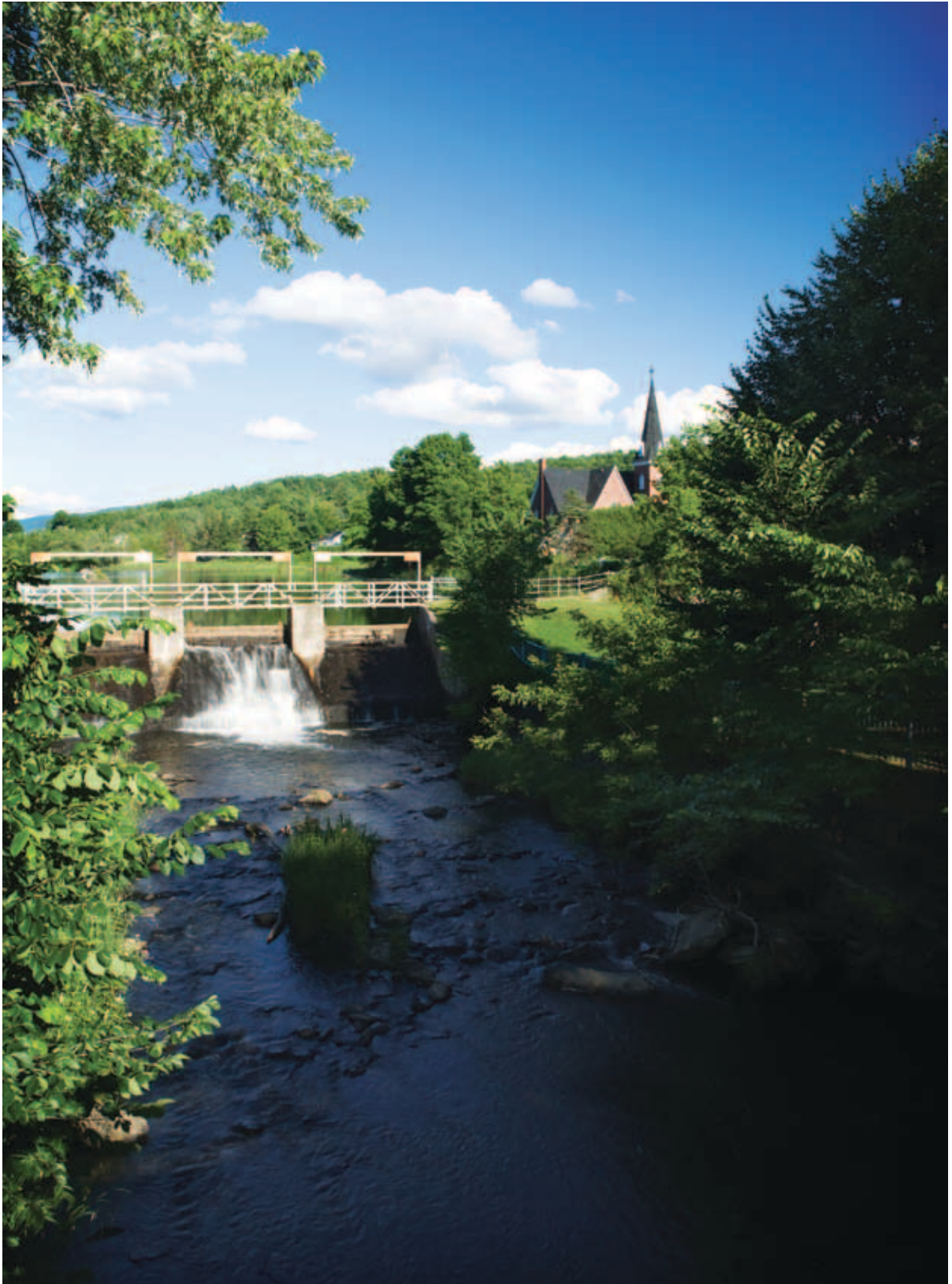
SECTION 6/MUNICIPAL SUCCESS STORIES AND BEST PRACTICES

SECTION 7/REFERENCES AND WEB LINKS YOU MAY FIND USEFUL

SECTION 8/GLOSSARY OF KEY TERMS



1.0 INTRODUCTION



2.0 THE DEVELOPMENT PROCESS



Municipalities have many opportunities for involvement in the renewable energy development process and they can be involved in a variety of ways. Therefore it is useful for them to have a clear understanding of the overall renewable energy project development process. This section describes the process and highlights key municipal touch points.



Renewable energy projects are complex and there are many important steps a developer needs to complete to bring the project to commercial operation. Though obtaining a FIT contract from the Ontario Power Authority (OPA) is a key goal for developers, the FIT contract is only one part of the overall development process. There are a number of subsequent steps that the developer must complete before proceeding to construction. Most renewable energy projects follow the same general development path.

Municipalities are involved in the process at various stages. The chart on the next page shows the stages of the FIT development process– from feasibility studies to decommissioning.



It is worth noting that the time frames for the steps in the development process depend on the type of energy technology employed. For example, from the contract offer stage to commercial operation typically takes 18 months for rooftop mounted solar projects, but it takes 3 years for wind, solar, and bioenergy projects, and 5 years for waterpower projects.

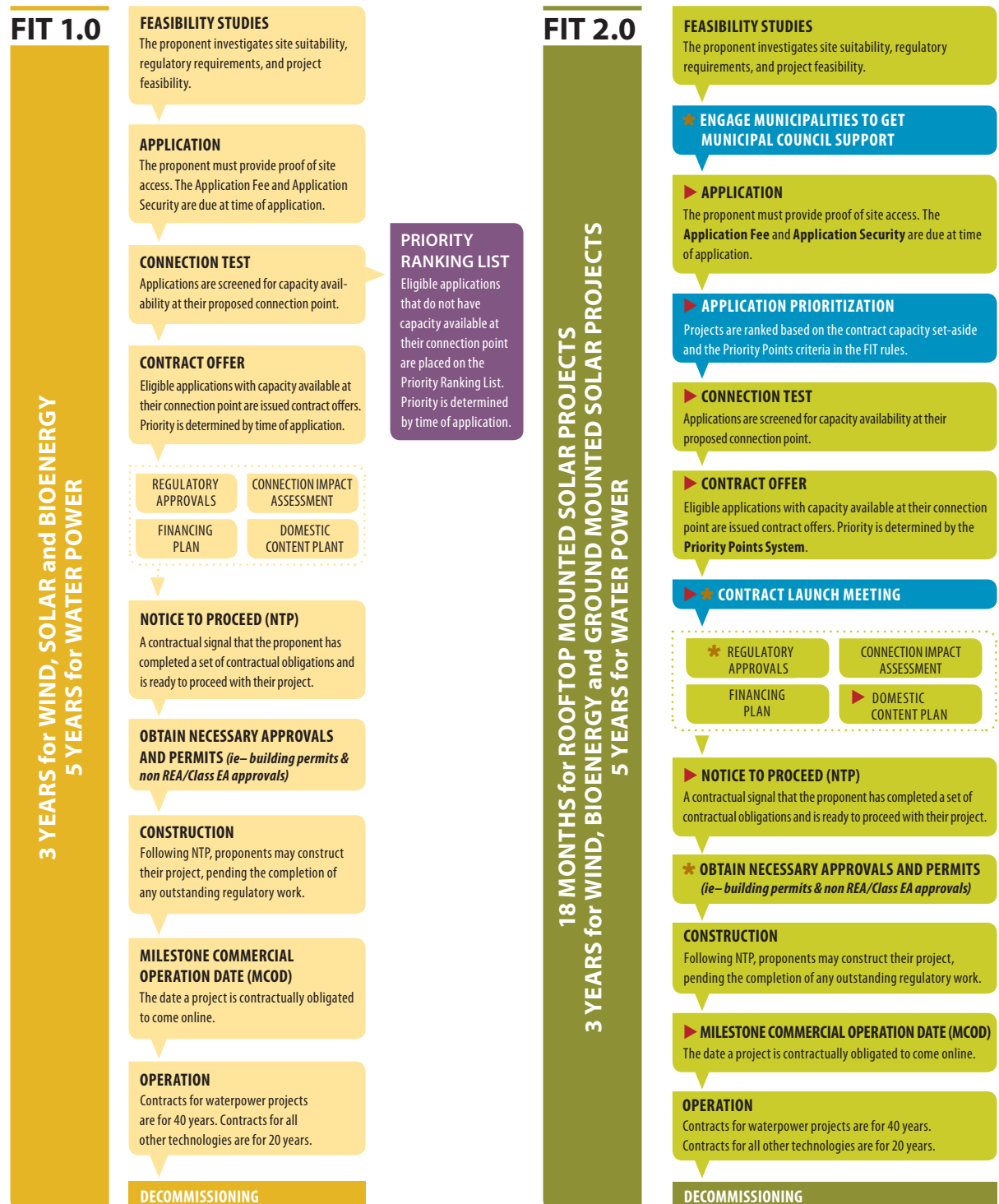
2.0.1 Determining Feasibility

Before submitting any applications to the FIT program or even considering developing a project, project proponents (also referred to in this guide as “developers”) investigate the feasibility of the project. At a minimum, this involves the developer identifying a site of sufficient size that is suitable for the type of renewable energy project that is being proposed (i.e.– wind, ground-mounted solar or rooftop solar etc.). Developers may investigate several sites, paying particular attention to things like: the natural and heritage features on the property, access to the resource (for example– determining the average wind speed on the property, how many hours of sun the property gets, and so on), and access to the electricity grid (for example; reviewing the OPA’s Transmission Availability Test (TAT) and Distribution Availability Test (DAT) tables to see if there is room on the grid in that location). Developers also investigate the cost of the development and their financing needs.

Developers typically lease, option, or purchase land from private landowners or sometimes municipalities for renewable energy projects. As they attempt to secure land, developers often have meetings with landowners or other members of the community about their project. Such meetings may provide the municipality with the opportunity to engage developers at the early stages of the project. The earlier municipalities become involved, the more opportunities they may have to have their concerns addressed.



2.0 THE DEVELOPMENT PROCESS



LEGEND



■ REMOVED FROM PROCESS

★ INDICATES A STEP WITH **DIRECT MUNICIPAL INVOLVEMENT**

■ NEW STEPS IN **FIT 2.0**

▶ INDICATES A STEP IN THE **FIT PROCESS**

2.0 THE DEVELOPMENT PROCESS

2.0.2 Power Procurement/Power Purchase Agreement

A FIT contract is basically a contract to sell electricity produced by a renewable energy project. This contract is often referred to as a “power purchase agreement”. Under the contract the province agrees to pay for the electricity at a set price over a set period. Because a FIT contract guarantees the developer a set price for the power produced, obtaining a FIT contract is crucial. The steps involved in making a FIT application are discussed in Section 3.

2.0.3 Environmental Approvals and Other Regulatory Processes

A developer can address some of the regulatory approval processes prior to the FIT contract being awarded. Once the FIT contract is awarded, all approval processes must be fulfilled as a condition of the FIT contract. During this stage, a developer would reach out to the local municipality if they have not already done so. The approvals process provides direction on other potential environmental and other approvals that a project may need, which may include provincial as well as federal and/or municipal requirements and approvals and agreements needed to connect the project to the Ontario electricity grid. The developer will also be required to conduct aboriginal, public and municipal consultations as part of the approval process. To move to the next stage developers must also satisfy a number of milestones specified in the FIT contract that relate to the regulatory processes.

During the approvals process a developer typically also makes additional or final arrangements for outside financing and starts to determine which manufacturers it will turn to for goods and services for the project.

2.0.4 Construction/Commissioning

In order to begin building the project, the developer is required to obtain Notice to Proceed (NTP) from the OPA. NTP is a contractual obligation that demonstrates that the developer has made significant progress on their project and is nearing a point where they can begin construction. In order to be eligible for NTP, the developer must have obtained the required regulatory approvals and necessary permits, and have made any necessary financial arrangements.

When construction is completed, the developer will make the final arrangements with the Local Distribution Company (LDC), Independent Electricity System Operator (IESO), Ontario Energy Board (OEB), and others to connect the project to the electricity grid. Payments start to flow to the developer only once the project has reached the so-called “commercial operation stage” which is when it is connected and providing electricity to the grid.

2.0.5 Operations

The term for a FIT contract is 20 years for wind, solar and bioenergy, and 40 years for waterpower.

During the operational period of the project developers carry out a number of ongoing activities, including:

- maintaining and replacing equipment and keeping the project in proper working order;
- site maintenance (such as landscaping);
- maintaining an active presence in the community;
- responding to concerns and complaints, etc.



2.0 THE DEVELOPMENT PROCESS

At the end of the FIT contract term, depending on the energy regulatory and procurement environment at the time, developers may elect to:

- negotiate a new contract for provision of electricity to the grid and continue operating the facility;
- continue delivering power to the grid at market rates, or convert to a net-metering arrangement;
- sell the project; or
- decommission the project.

2.0.6 Decommissioning

When a renewable energy project reaches the end of its useful life (which may be at the end or after the FIT contract term), the project is decommissioned. Decommissioning is the sole responsibility of the project developer. Many materials used in renewable energy projects can be salvaged or reclaimed.

Under the Renewable Energy Approval process, developers of renewable energy projects (other than Class 2 wind projects) must submit a decommissioning plan to the Ministry of Environment (MOE) describing how they propose to restore the project location and land to a clean and safe condition that is suitable for future use. This includes retiring the elements of the renewable energy generation facility, restoring the land and water, and managing the excess materials and waste. In addition, developers of projects involving class 2 and 3 anaerobic digestion facilities and class 2 and 3 thermal treatment facilities are also required to provide financial assurance estimates to MOE related to decommissioning costs.

If the project is on agricultural land, proper decommissioning is expected to include returning the project location to the same—or better—agricultural capability it had before the project started. This could involve repurposing facilities to other agricultural uses (for example, nutrient storage tanks from biogas systems) and removing obstacles (for example, concrete bases or laneways) that could impede farm equipment operation. Any removed topsoil, altered drainage systems, or compacted soil resulting from construction, operation, or decommissioning of the renewable energy facility should be mitigated.

During discussions related to municipal council approval to earn priority points (see section 3), municipalities can raise any general concerns they may have about the decommissioning plan with the developer. For example, the municipality may consider asking the developer to demonstrate how they will ensure that there will be sufficient funds to ensure proper site remediation and decommissioning at the end of the useful life of the project.



2.0 THE DEVELOPMENT PROCESS

2.1 MUNICIPALITIES IN VARIOUS ROLES

When it comes to the development of renewable energy projects, municipalities can play a number of different roles. Municipalities can develop their own projects, they can partner with developers as co-owners, and they can host projects.

The chart below highlights the different roles municipalities play in the development process and sets out some considerations applicable to each role.

ROLE	CONSIDERATIONS
Municipality as a Developer	Municipalities can be involved as a developer of renewable energy projects up to 10 MW. The GEGEA amended the <i>Electricity Act</i> to allow municipalities and LDCs to generate up to 10 MW using renewable energy. Previously, municipalities could only generate electricity using an independent corporation. The ability to generate electricity from renewable sources without the creation of an independent corporation allows municipalities to increase their potential revenue through the participation in the FIT program. In considering whether to develop a renewable energy project the municipality should think about whether they have land or a building they can use or whether they would need to lease/rent property. As well, they should determine whether they have the financial resources to develop a project on their own, and consider the regulatory process that they will have to satisfy.
Municipality as a Partner	A municipality can partner with a developer on a renewable energy project. Before doing so, the municipality should consider: • How much electricity would this type of system generate? • What revenue would this system generate for the developer (under a FIT contract)? • Might the system be transferred to the municipality at the end of the FIT contract term? • What ownership structure might be best? For example, should the municipality be the partner, or should it participate less directly, for example, by investing in a subsidiary of the LDC that develops the project? Keep in mind that the municipality can partner with others to develop a project, including Community Participation or Aboriginal Participation projects as well as on projects involving private developers.



2.0 THE DEVELOPMENT PROCESS

Role <i>continued</i>	Considerations <i>continued</i>
Municipality as a Host	Municipalities can choose to host projects on municipally-owned properties in return for lease payments or other mutually beneficial arrangements. During the negotiations with the developer, agreements may be negotiated that benefit the municipality such as upgrading the roof of a building (for a solar installation) or the creation of a community amenity such as a park or sports field. In such cases the municipality should consider the questions it might ask the developer, as well the issue of what each side stands to gain from an agreement. For example, if a municipality is approached about hosting the installation of solar panels on the roof of a municipal building, a municipality may want to know: • How much electricity would this type of system generate? • What revenue would this system generate for the developer (under a FIT contract) and are there revenue-sharing opportunities for the municipality? • Would the roof-top system be owned by the municipality or the developer? • Might the system be transferred to the municipality at the end of the FIT contract term? • What is the expected life of the roof-top system? • What structural requirements and impacts would there be to the roof? • Will there be on-going maintenance required? If so, who will carry it out? • Are there insurance or tax implications?
Municipality as a Reviewer	Municipalities are responsible for: • Confirming the zoning of lands proposed for ground-mounted solar projects through the completion of a prescribed form developed by the OPA. This form must be completed by a local municipal planner or official. The OPA will use this information to determine whether projects meet FIT 2.0 land use restrictions. • Consider requests from project developers to provide municipal council support, in the form of a completed prescribed form, developed by the OPA for specific projects (or blanket support for types of projects– i.e., rooftop solar), which developers can use to obtain FIT 2.0 priority points • Completing the REA Municipal Consultation Form • Providing comments on the project during the public consultation process • Reviewing the REA reports prior to submission to the MOE • Working with the developer to determine how the municipality may benefit from the project



3.0 THE FIT PROGRAM



In this section, we describe the FIT program including:

- A brief history of the program, including the two-year review.
- FIT 2.0 program eligibility rules (reflecting recent changes to the program).
- The point system for priority ranking of FIT 2.0 applications.
- The FIT 2.0 contracting process.
- The new mandatory contract launch meeting for large FIT projects.

Through the FIT program, Ontario procures renewable energy generated from wind, solar, bio-energy, and waterpower (hydroelectricity). The FIT program provides large and small generators with a straightforward contracting process under which they can obtain a long-term contract that guarantees them a stable price. Before the FIT program the province procured energy from renewable energy projects through other programs, such as:

- the Renewable Energy Supply (RES) (2004-2009), and
- the Renewable Energy Standard Offer Program (RESOP) (2006-2009).

The FIT program requires that all FIT wind projects over 10 kilowatts (kW) and all FIT and microFIT solar projects contain a minimum amount of goods and services that come from Ontario. A project's milestone date of commercial operation governs the minimum Ontario-based content for the project.

RESOP was the procurement program that immediately preceded the FIT program and applied to renewable energy projects 10 MW or less. Because of the way the RESOP was structured, only certain types of energy projects qualified. Since renewable energy projects can take several years to develop and bring online, some RESOP projects are still being constructed. Some RESOP projects proceeded according to environmental approvals in place prior to the REA process, and some are subject to the newer REA process.

The distinction between renewable and non-renewable projects is sometimes confused. It is useful to note that Energy from Waste (EFW); combined heat and power systems that are powered by non-renewable fuels (such as natural gas); district energy systems; ground source heat pump systems; and solar thermal (air/water heating) are not renewable energy projects within the definition of the FIT program.

3.1 FIT CATEGORIES

Projects under the FIT program are categorized by the amount of electricity they generate. Under FIT 2.0 there are three basic categories for renewable energy projects:

- **Large FIT projects** are projects that have the capacity to produce over 500 kW (under FIT 1.0, these were referred to as Capacity Allocation Required (CAR) projects).
- **Small FIT projects** are projects that have the capacity to produce more than 10 kW, but less than or equal to 500 kW (under FIT 1.0, these were referred to as Capacity Allocation Exempt (CAE) projects).

3.0 THE FIT PROGRAM

- **microFIT projects** are projects developed by farmers, homeowners, and others that have the capacity for producing 10 kW or less. Other significant features of microFIT projects are that they are subject to a simplified contracting process and also are generally exempt from the need for a REA.

“FIT prices” are the amount the province pays per kilowatt-hour (kWh) of electricity under a FIT contract. FIT prices are set for the term of the contract and do not vary, regardless of whether the rates change after the contract is signed. Part of the FIT price for wind, bioenergy and waterpower projects is adjusted for inflation.

3.2 FIT TWO-YEAR REVIEW

The FIT 2-Year Review resulted in changes to help municipalities play a greater role in the development of projects. However, the changes in FIT 2.0 only affect new contracts. As a result, all future offers of clean energy contracts will be subject to the new price schedule and program rules. FIT 1.0 contract holders continue to be managed under the terms and conditions of their existing FIT contract.

FIT prices were re-examined as part of the two-year review. The review showed that the cost of developing a renewable energy project has decreased thanks to advances in technology and economies of scale. Under the new price schedule published following the two-year review, amounts paid for solar energy have been reduced by more than 20 per cent and for wind energy the prices have been reduced about 15 per cent. Prices paid from energy derived from water, biogas, biomass, and landfill gas have not changed. In the chart below you will find updated FIT prices as announced in the FIT Review Report issued in March 2012.

FUEL	PROJECT SIZE	ORIGINAL FIT PRICE (¢/kwh)	NEW FIT PRICE (¢/kwh)	% CHANGE FROM ORIGINAL FIT PRICE
SOLAR ROOFTOP	≤ 10 kW	80.2	54.9	-31.5%
	> 10 ≤ 100 kW*	71.3	54.8	-23.1%
		< 250 kW		
	> 100 ≤ 500 kW*	63.5	53.9	-15.1%
		> 250 ≤ 500 kW		
	> 500 kW	53.9	48.7	-9.6%
SOLAR GROUND MOUNT	≤ 10 kW	64.2	44.5	-30.7%
	> 10 kW ≤ 500 kW*	44.3	38.8	-12.4%
	> 500 kW ≤ 5 MW*	44.3	35.0	-21.0%
	> 5 MW	44.3	34.7	-21.7%
WIND	All sizes	13.5	11.5	-14.8%
WATER	≤ 10 MW	13.1	13.1	0.0%
	> 10 MW ≤ 50 MW	12.2	12.2	0.0%
BIOMASS	≤ 10 MW	13.8	13.8	0.0%
	> 10 MW	13.0	13.0	0.0%
BIOGAS ON FARM	≤ 100 kW	19.5	19.5	0.0%
	100 kW ≤ 250 kW	18.5	18.5	0.0%
BIOGAS	≤ 500 kW	16.0	16.0	0.0%
	> 500 kW ≤ 10 MW	14.7	14.7	0.0%
	> 10 MW	10.4	10.4	0.0%
LANDFILL GAS	≤ 10 MW	11.1	11.1	0.0%
	> 10 MW	10.3	10.3	0.0%

* New project size

3.0 THE FIT PROGRAM

3.3 REVIEW RECOMMENDATIONS

In addition to a new price schedule, the province has made changes to the FIT program based on specific recommendations. As shown below, these changes give municipalities more opportunities for input, while continuing to encourage the generation of more clean energy and the creation of skilled jobs locally.

Here are the highlights of the changes made to the program as a result of the two-year review that are likely to be of particular interest to municipalities:

3.3.1 Improving Municipal Engagement

A number of changes have been made to improve municipal engagement in the program. One of the key changes is that under the new priority points system (described below), projects with municipal support have an advantage in the FIT application review process. As a result, municipalities have the ability to offer (or deny) a formal council resolution in support of projects planned in their community, which can be highly beneficial to developers.

Another important change that specifically benefits municipalities is the requirement for a contract launch meeting for all new large FIT contracts. This meeting provides the municipality with an early opportunity to discuss the project with the developer, government agencies, and the local distribution company. Perhaps more importantly, the contract launch meeting provides the municipality with the opportunity to define its expectations.

3.3.1.1 Revisions to the Municipal Consultation Form

Working with the Association of Municipalities of Ontario (AMO), the Ministry of the Environment has revised the municipal consultation form related to the REA process to better reflect areas of municipal concern. As a result, municipalities are now able to quickly reference the appropriate sections of the relevant documents submitted by the developer to review potential project impacts to municipal infrastructure, property, and services.

3.3.2 Encouraging Greater Community and Aboriginal Participation

In addition to encouraging active participation by municipalities, the two-year review clarifies the importance of ensuring projects are rooted in the community. To foster this, under FIT 2.0 the province has:

- Created a new priority point system for the award of FIT contracts, with points awarded to projects with significant Community and Aboriginal Participation.
- Reserved a minimum of 100 MW of the remaining FIT contract capacity for projects with greater than 50% Community Participation or Aboriginal Participation. Note that developers who do not meet these equity participation requirements are not eligible for this capacity set aside

Please refer to section 3.6.4 for more details.

3.3.3 FIT Definition of Community Participation

Under FIT 2.0, “Community Participation” projects are specifically defined to mean projects that have at least a 15% equity interest held by a co-operative with local participation.



3.0 THE FIT PROGRAM

In order to be considered a Community Participation project, a co-op developing a Large FIT project must have at least 50 members that are local property owners. For Small FIT projects, a co-op must have at least 35 local property owners as members.

3.3.4 Approach to Renewable Energy Development on Crown Land

The Ministry of Natural Resources (MNR) is currently updating its strategic direction on how Crown land will be made available and managed for renewable energy projects. The updated approach is intended to align MNR's renewable energy policy with regard to Crown land with Ontario's Long-Term Energy Plan, provincial procurement and transmission availability.

3.3.5 Regular Review of the Program Prices

Beginning in 2012, the province will conduct annual reviews of FIT prices. Every November the province will set the prices that will be in effect for the following year.

As well, at the end of 2013 the government will review the province's electric supply and demand forecast and will explore whether a higher renewable capacity target is warranted. Depending on the results of that review, changes may be made to the FIT program.

3.4 FIT PROGRAM ELIGIBILITY RULES

To qualify for the FIT program, projects must meet eligibility criteria. A detailed explanation of the FIT program eligibility rules are beyond this guide. Readers interested in such information can find it on the FIT website². In this section, we briefly highlight the main changes to the eligibility rules that are of particular relevance to municipalities.

3.4.1 Clarifying Project Siting Rules

Clarifying and strengthening project siting rules to ensure responsible project development is one of the recommendations relating to improving municipal engagement that came out of the FIT 2-year Review. In this regard, under FIT 2.0 municipalities benefit from the removal of the previous broad zoning exemption for ground-mounted solar facilities greater than 10 kW on prime agricultural land. Under FIT 2.0, the list of exemptions from the prime agricultural restrictions is explicit. The rationale for the change is recognition of the need to balance more renewable energy with the need to protect agricultural land.

Under FIT 2.0 a rigorous process has also been put in place for ground-mounted solar project sites with a mix of prime agricultural land (Classes 1 to 3) and/or organic soil and non-prime agricultural land (Classes 4 to 7). Land evaluation studies are required to be prepared by a qualified soil scientist/pedologist according to a standardized methodology to demonstrate that the ground-mounted solar facility can be placed on non-prime agricultural portions of the property only. The studies must undergo a third party peer review. You can find details regarding the standardized methodology and peer review process on the Ministry of Energy's website at:

<http://www.energy.gov.on.ca/en/fit-and-microfit-program/>

Local planning priorities are also balanced by the prohibition of microFIT wind up to and including 3 kW and ground-mounted solar from residential areas and land adjacent to residential areas. A



² <http://www.powerauthority.ca/sites/default/files/news/document-2012-08-10-082759.pdf>

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ground-mounted solar project is permitted in association with residential use when that residential use is ancillary (i.e., secondary) to an agricultural use. Some limited exemptions to these residential restrictions were identified that would allow flexibility for the development of ground-mounted solar projects under certain conditions. Ground-mounted solar is not permitted to be developed on rural/agricultural land that abuts residential lands and on lands zoned to permit residential use, except in some cases where projects may proceed if they are able to meet specific setback, visual buffering and maintenance and warranty requirements. For more information refer to the OPA's FIT rules at: **<http://fit.powerauthority.on.ca/rules-exhibits-and-forms>**.

The restriction under FIT 2.0 that ground-mounted solar is only permitted as a secondary use on lands zoned for commercial or industrial use helps municipalities by ensuring they continue to have access to these lands for use as employment lands or for other purposes that will generate economic opportunities for the municipality.

Note that rooftop facilities continue to be permitted on agricultural, residential, commercial and industrial areas.

The chart on the next page summarizes the land use restrictions regarding ground-mounted solar projects greater than 10 KW that applied under RESOP, FIT 1.0 and those that apply under FIT 2.0.

It should be noted that municipalities can develop ground-mounted solar projects on Class 3 land they owned at the time they applied for a FIT application. This exemption from the restrictions set out above allows municipalities greater flexibility to participate in FIT 2.0.



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LAND USE RESTRICTIONS ON GROUND-MOUNTED SOLAR FACILITIES	
OPA Procurement Program	Ground-mounted Solar Land Use Restrictions
RESOP	— None —
FIT 1.0	Projects of 100 kW or greater, may not be located on: • Canada Land Inventory (CLI) Class 1, 2, or 3 soils, unless those Class 3 lands were municipally zoned to permit non-agricultural uses as of Oct. 1, 2009 • Specialty crop areas When proposing a ground-mounted solar facility on the non-CLI Class 1,2,3 portion of a property with a mix of soils, developers must submit to the OPA soil studies (performed by independent, qualified soil scientist using accepted standards).
FIT 2.0	Projects of 10 kW or greater, may not be located on: • CLI Class 1, 2, or 3 lands; unless the site is: – an airport or aerodrome – a closed landfill – a contaminated site (see FIT 2.0 rules for specific definition) – an industrial zoned site (secondary use only) – a federal military establishment – owned by a municipality with CLI Class 3 soil • Organic soils • Residential property or on property abutting residential property, except where the property and all abutting properties are zoned agricultural and the residential use is ancillary to the agricultural use. However, in some cases, projects will be permitted if they meet specific setback, visual buffering and maintenance and warranty requirements. For more information refer to the OPA's FIT rules at http://fit.powerauthority.on.ca/rules-exhibits-and-forms Guidelines will also be available on the Ontario Ministry of Energy website • Commercial or industrial properties (unless it is entirely a secondary use of the property) When proposing a project on the non-CLI 1, 2, 3 or organic soil portions of a property with a mix of soils, developers must submit soil studies, using an expanded methodology and peer review process, to the OPA.

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3.5 KEY DIFFERENCES BETWEEN FIT 1.0 AND FIT 2.0

You can find a summary of the key differences between the original FIT program (referred to here as “FIT 1.0”) and FIT 2.0 at:

<http://www.energy.gov.on.ca/en/fit-and-microfit-program/>

You can find a summary of the key differences between the original microFIT program and FIT 2.0 as it applies to microFIT projects at:

<http://microfit.powerauthority.on.ca/microfit-program-resources/revised-faqs>

3.6 THE FIT 2.0 CONTRACTING PROCESS

It is important for municipalities to understand the FIT contracting process because there are a number of points in the process where municipalities can be involved (see the **FIT category definitions** on page 11, section 3.1). Please note that approvals for microFIT projects may be different from those for FIT projects.

The following are the key steps in the awarding of a FIT contract:

1. Pre-application stage– the developer conducts feasibility studies and other due diligence; seeks municipal support.
2. Developer prepares and submits a FIT application to the OPA.
3. OPA reviews the FIT application for completeness and eligibility (ineligible applications are rejected at this stage).
4. Within any FIT application window, the OPA ranks FIT applications. Applications with greater than 50% community or Aboriginal equity participation will be given priority over any other applications.
5. OPA would then offer FIT contracts to other developers (based on ranking).
6. OPA conducts connection test for ranked projects.
7. OPA offers FIT contracts if there is connection capacity. The OPA will not award a contract to a project if there is no grid connection capacity.
8. Developer accepts the contract offer and signs the contract– if large FIT. Once the FIT contract is signed the Renewable Energy Facilitation Office (REFO) sets up the contract launch meeting involving the developer and municipality, among others.

Throughout this section we use the term “the developer” to mean the person, company, partnership, or group that is planning or undertaking a renewable energy project. So, for example, rather than referring to a person or group that submits a FIT application as the applicant or proponent of a project, we simply refer to them as the developer.

In the sections below we describe the stages in the FIT 2.0 Contracting Process that are of particular relevance to municipalities.



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3.6.1 Pre-application Stage



The activities that take place during the pre-application stage are often thought of as developer front-end work. For example, these activities may include identifying and obtaining access to a suitable site, looking into project financing, conducting any required resource testing, contacting the municipality to begin pre-consultations, and so on. Given the changes in FIT 2.0 that encourage more municipal input, the province encourages developers to contact the local municipality during this stage to begin discussions that may lead to municipal council approval, which carries with it two valuable priority points.

During the pre-application stage developers would also assess whether there are any “show stoppers” related to the property that they are considering for their renewable energy project— things like presence of prime agricultural land, First Nation land claims, and so on.

Though developers do not have to contact the municipality as part of their pre-application due diligence, if a municipality is contacted by the developer (for example, for information about archaeological or heritage resources), such contact provides an opportunity for the municipality to engage the developer in discussions that may lead to mutually beneficial agreements regarding matters of concern to the municipality.

Because formal municipal support for a project translates into the awarding of two points in the new priority point system for ranking of FIT applications (which is described in detail below), municipalities have the ability to selectively support the projects they feel best fit with local planning priorities and local character. By proactively engaging with developers at the pre-application stage, municipalities can work to influence important decisions, such as project siting. For example, for a new project, a municipality may be able to suggest alternative locations within the municipality to the developer for the project. It should be noted that existing FIT 1.0 project applications that are being updated to be eligible for FIT 2.0 may be less flexible in their ability to negotiate significant project changes (i.e., project location) as these would affect their transition provisions.



As noted, early on in the pre-application stage is an opportune time for the municipality to try to negotiate with developers to enter into mutually beneficial agreements. For example, if the municipality is concerned that a project might place additional burdens on its emergency response system, the municipality might raise this concern and discuss with the developer whether special equipment or training is required to ensure the municipality has adequate emergency response services in place.

Municipalities can discuss with the developer how they will return the property back to its original state at the end of the useful life of the project and confirm that decommissioning will be carried out in an agreed upon manner.

3.6.2 Developer Prepares and Submits FIT Application

Details about how to complete a FIT application are beyond the scope of this guide. Please find this information on the FIT program website at:

<http://fit.powerauthority.on.ca/what-feed-tariff-program>

and by speaking with staff at the Renewable Energy Facilitation Office (REFO). Because municipalities may get questions about certain aspects of the application, particularly the priority point system, we have provided some information about the FIT application process below.

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Because of the land use restrictions in place for microFIT wind projects up to and including 3 kW, and for microFIT and FIT ground-mounted solar projects of any size, developers of such projects must get confirmation of the existing zoning as part of their application to the OPA. Developers must request this confirmation from municipalities, and use the prescribed FIT program form. The form is to be completed by and executed by:

- a land use planner or a director of planning or equivalent municipal official (in other words, a registered professional planner); or
- a chief building official, municipal chief administrative officer, municipal clerk or equivalent municipal official.

The developer must obtain this documentation from an official from every municipality in which the project is located in whole or in part. Project developers may also choose to have an independent Professional Planner complete the documentation, as applicable.

The role of the municipal official/independent professional planner is to provide confirmation of the existing zoning in the municipality(ies). The OPA will use this information to determine whether the microFIT or FIT application meets the relevant land use restrictions under the program rules.



3.6.3 Transition of Applications from FIT 1.0 to FIT 2.0

If a developer submitted an application under FIT 1.0 but was not awarded a contract and is still interested in participating in the FIT program, the developer must re-apply under the terms of FIT 2.0. Re-submitted applications are subject to the new rules and pricing, including the new priority point system.

Applicants that resubmit their applications will retain their original timestamp while being assessed under the new program rules for the prioritization of applications. FIT 1.0 applicants may update their application in order to qualify under the new program rules, but the location of the proposed project must remain the same to retain the timestamp. The legal name can only change if a priority applicant type is being added to the application.

3.6.4 Priority Point System for OPA Ranking of FIT Applications

One of the new innovations under FIT 2.0 that gives municipalities influence in the FIT program is the introduction of a point system to prioritize FIT applications in the contracting process. In this guide we generally refer to this as the “priority point system”. To qualify for a contract, an application needs to earn at least one point. The OPA awards project points for different types of applications (in this document we refer to them as “application points”), as well as “additional points” for other criteria, such as: municipal support, Aboriginal support, project readiness, and electricity system benefit. Details about the rules related to “project readiness” are beyond the scope of this guide. If you would like more information, consult the April 5th and July 11th, 2012 Ministerial Directives:

<http://www.powerauthority.on.ca/about-us/directives-opa-minister-energy-and-infrastructure>

It should also be noted that under FIT 2.0, a contract capacity set-aside has been allocated for specific types of projects. A minimum of 100 MW has been reserved for projects with greater than 50% Community Participation and Aboriginal Participation. Within any FIT application window, qualifying applications that meet these criteria will be prioritized over any other applications that obtain prioritization points, as described above, such that they would be offered contracts first. Additionally, 50 MW has been reserved for hydroelectric projects.



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PRIORITIZATION POINTS TABLE

APPLICANT TYPE	POINTS
A Community Participation project is one in which a local co-op with a minimum number of members that reside in the municipality owns a minimum 15% equity interest. In the case of large FIT projects, the Community Participation project must have 50 or more property owners as members who live in the municipality where the project is located. In the case of small FIT projects, a Community Participation project must have a minimum of 35 property owners who live in the municipality where the project is located.	3
An Aboriginal Participation project that has a minimum 15% equity interest in the project.	3
A project in which a publicly-funded school, public college, university or publically-owned long term care home has a minimum 15% equity interest or is a project host	2
Other applicants	0
ADDITIONAL POINTS (may qualify for more than one of these categories of points)	
Local Municipal Council Support Resolution	2
Aboriginal Community Support Resolution	2
Project Readiness (Maximum of 2 points from options below)	2
- 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. - 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.	1
Project that applied on or before July 4, 2011	1
Projects that applied on or after July 5, 2011	0.5
System benefit (water and bioenergy)	1



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For purposes of priority points, “local municipality” means a municipal corporation as defined by the *Municipal Act, 2001*, SO 2001, c25.

It should be noted that a given project can earn additional points if they satisfy more than one of the “additional points” criteria but an application cannot be awarded additional points that relate to the application type. For example, if a First Nation community is submitting an application for an Aboriginal Participation Project, the application is awarded three points for the applicant type. However, if the proposed project is also located on that same First Nation community’s reserve land, then the project is ineligible for the additional points associated with an Aboriginal community support resolution from that First Nation Council.

The chart on the next page summarizes the categories and points available:

As noted, one criterion every developer can try to earn points for is by demonstrating support from the local municipality. The OPA awards two points if the developer submits its application with a prescribed form³ showing that a formal municipal council resolution was passed in support of the proposed project. Therefore, through the priority point system, municipalities have the ability to influence whether an application is awarded a FIT contract. The ability to earn priority points as a result of municipal support means that developers seeking a contract now have an incentive to negotiate and work with municipalities.

The sole purpose of the municipal council support resolution is to enable the participants in the FIT program to receive priority points under the program and may not be used for the purpose of any other form of municipal approval in relation to the project, or for any other purpose. Projects which obtain municipal support for the purpose of FIT priority points will still be subject to all relevant permitting and approval processes, which may include REA approvals, building permits and other requirements.

There are two possible prescribed forms under the FIT program for municipal support resolutions: the prescribed form for the Municipal Council Support Resolution provides support for an individual project, while the Municipal Council Blanket Support Resolution prescribed form provides support for all projects of a certain type during a one-year period. Please note that the FIT program rules require that the Municipal Council Support Resolution must use the wording in the FIT program prescribed form in order for applicants to be eligible to receive priority points. If municipalities have additional requirements that they would like project developers to undertake, they may wish to enter into separate agreements with developers.

The ability to earn priority points as a result of municipal support means that developers have an incentive to negotiate and work with municipalities. Municipalities that actively negotiate with developers seeking municipal support may have the opportunity to influence many things, such as: where the project is situated, the recovery of costs the municipality might incur, and even the possibility of earning returns if the municipality ends up partnering with the developer.

It should be noted that to earn priority points, the municipal support must be provided at the time the developer submits the FIT application. Once the contract is awarded, any changes by the municipality of its position regarding the project will have no impact on the developer’s FIT application priority position.



³ You can find the prescribed municipal support form at:

<http://fit.powerauthority.on.ca/sites/default/files/%28f015r1%29%20Municipal%20Council%20Support%20Resolution.pdf>

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Municipalities can encourage applications from particular types of proponents (e.g.– blanket support resolution for all rooftop solar projects), as well as encourage applications in areas that are consistent with local municipal planning priorities (in other words, the municipal growth plan, community energy plan, and so on). Therefore, developers that work closely with municipalities likely will have broader support and will receive points during the application process, helping those projects move forward.

For the purposes of the FIT 2.0 program, a Municipal Council Support Resolution requires a resolution demonstrating the support of the local municipality for such project.

For each round of contracting, the OPA pools eligible applications and then ranks them based on the total number of priority points. Priority as between applications that have the same number of points are ranked based on each application's timestamp. The OPA then screens all ranked projects to assess if the projects are likely to be able to connect to the grid. This screening is called the Transmission Availability Test. Distribution connected projects must also pass a similar assessment, known as the Distribution Availability Test, which is conducted by the LDC. For projects which pass the screening tests, the OPA offers developers contracts. Contract offers are subject to procurement limits set by the OPA. These screening tests do not ensure ability to connect the project. If a generator receives a FIT contract, the project would then be subject to one or more detailed impact assessments that may be required by the system operator, transmitter or LDC. If the OPA does not offer a developer a contract with regard to a particular application, the application is terminated by OPA. However, developers whose applications have been terminated can submit new applications in future rounds.

"Eligible applications" are applications the OPA has reviewed and determined eligible according to the FIT rules. Eligible applications are not necessarily awarded a FIT contract, however.

3.7 CONTRACT LAUNCH MEETING

The contract launch meeting required for Large FIT projects under FIT 2.0 is particularly beneficial to municipalities. While it is in a developer's interest to engage the local municipality or municipalities as early as possible in the development process, municipalities will learn details about local projects through the mandatory contract launch meeting in any event. The meeting is an opportunity to ensure lines of communication between the municipality and developer are open and to foster collaboration moving forward.



The REFO sets up the meeting after the OPA and developer both sign the FIT contract. The purpose of the meeting is to ensure:

- developers are aware of the contractual and regulatory requirements that apply to them;
- municipalities are aware of the project at an early stage (in other words, before the regulatory Notice of Project) and have the ability to comment on the project plans; and
- government ministries and agencies have the opportunity to discuss regulatory requirements and answer any questions that developers or municipalities may have.

In the event the developer has not met with the municipality at an earlier stage (in other words, before the contract launch meeting), this meeting is an opportunity for the municipality to

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comment on municipal infrastructure issues and interests. As well, because municipal staff will also have local knowledge of the site, at the meeting the municipality may be able to offer guidance to the developer regarding matters the developer may not be aware of but that it should take into consideration as it plans and designs its project.

Examples of some of the municipal concerns that can be identified at any meetings with developers include:

- Impact to roads, traffic volumes;
- Timing of construction activities;
- Impacts with respects to site drainage;
- Additions/alterations to culverts, ditches and municipal drains;
- Rights of way issues;
- Provisions for municipal services if required;
- Emergency services response plans and provisions for site access;
- Natural & archaeological features; and/or
- Opportunities for local economic development.

Information on some issues may not be available at the contract launch meetings and may require additional discussions between the developer and municipality when this information is available.



4.0 THE REGULATORY PROCESS



As noted earlier for developers who participate in the FIT program, obtaining a FIT contract is only one step in the process of ultimately having a renewable energy project connected to the grid. A FIT project cannot be constructed until it meets applicable regulatory requirements. The streamlined regulatory approval process is designed to engage local communities, while being protective of human health and the environment.

Typically, after a developer receives a FIT contract, they begin designing the project to meet applicable regulatory requirements. Developers cannot start construction until they have the required regulatory approvals and any other necessary permits.

Because renewable energy development often involves changes that can impact natural and cultural environments, a developer may require approval of a project from a number of bodies at the federal, provincial and municipal levels. Of course not all regulations apply to each project. For example, there are different regulatory permitting processes for rooftop and ground-mounted solar projects. While requirements vary by project, they all involve rigorous assessment of the project's impact on human health, safety, the natural environment, and the surrounding community and infrastructure. Regulatory approvals also require community consultation. It is the project developer's responsibility to ensure that it meets all regulatory requirements.

The Renewable Energy Facilitation Office (REFO) can help you find out information about renewable energy projects being developed in your community.

As well, the Ministry of Environment has posted on its web site a list of renewable energy projects that have submitted an application for a REA. This list includes projects that have REA approval; projects under technical review; projects returned as incomplete or withdrawn; and projects currently being screened for completeness. You can find the list at:

http://www.ene.gov.on.ca/environment/en/subject/renewable_energy/projects/index.htm

Keep in mind that projects might be in the development stage, or are still undergoing REA studies, in which case they would not be listed. The list only includes projects for which a developer has applied for an REA.

In this section we discuss various regulatory requirements that can apply to a project, with particular attention paid to phases of the regulatory process that involve municipalities. All renewable energy projects are subject to one of the following two approval streams⁴:

- Renewable Energy Approval (REA) process;
- Class Environmental Assessment (Class EA), which is for waterpower projects.

⁴ Some bio-energy and older renewable energy projects (wind, solar, and/or bio-energy) may be subject to the Environmental Compliance Approval process (formerly Certificate of Approval).

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The Ministry of the Environment has included certain types of renewable energy projects on the Environmental Activity and Sector Registry (EASR). The EASR is a public, web-based self-screening system where people engaging in selected activities are required to register rather than seeking an approval through the normal regulatory application submission and review process. Developers with activities listed on the EASR will have to meet eligibility and operating requirements set out in a regulation.

Renewable energy projects may also be subject to other approvals, such as:

- Approvals and permits administered by the Ministry of Natural Resources;
- Ministry of Transportation approval;
- Ontario Energy Board approvals;
- Municipal permits and requirements; and
- Federal requirements.

4.1 CONSULTATION AND THE ENVIRONMENTAL APPROVAL PROCESS

Under all regulatory approval processes, municipalities play a key role as stakeholders. The requirement that developers must engage in municipal consultation with regard to proposed projects (as well as Aboriginal and public consultation) is evidence of their role as a key stakeholder. To demonstrate that they have engaged in such consultations, developers are required to document their consultation activities and submit the documentation as part of their complete REA application.

The province encourages developers to reach out to municipalities early and often in the development process (beyond the mandatory consultation) and to discuss their projects with municipal staff and/or Councils (both upper and lower tier in two-tier municipal structures). This allows the municipality to be fully informed about planned projects, which is helpful, as often municipalities get questions from the public about what a developer is up to, or what stage a proposed project is at.

Municipalities are encouraged to use the consultation process as an opportunity to ensure local interests and concerns are considered in, and mitigated by, the project design. As well, municipalities should explore the possibility of entering into various agreements with developers. These agreements could clarify expectations and responsibilities around costs as well as identify benefits to the municipality of the renewable energy project. While agreements of this nature are not required for the developer to receive an approval, the developer may include details about such an agreement in its complete REA submission.



4.2 THE RENEWABLE ENERGY APPROVAL (REA) PROCESS

The GEA introduced the Renewable Energy Approval (REA), a new, streamlined and coordinated approval process that features: certainty with respect to provincial standards; transparency; and mandatory public consultation applicable to most renewable energy projects (*Ontario Regulation 359/09*). The REA's clear, consistent rules and standardized technical requirements apply to wind, solar, and bio-energy projects across the province.

As a result of the FIT 2-year Review, changes to the REA process have been made to reduce unnecessary delays and duplication, and to ensure that the scale of the environmental approval processes corresponds to the size and impacts of projects. The province has also created a

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Renewable Energy Committee comprised of staff of various ministries to monitor the progress of renewable energy projects. As a result of the streamlining, the province anticipates that the REA process could be shortened by up to 25%, without reducing the high standards of environmental protection.

Developers generally wait until they have a FIT contract before they start the REA process, since undertaking the required studies involves a significant financial commitment and because they will not be able to sell power from the project unless they have a contract. Ministries responsible for reviewing and issuing approvals for renewable energy projects typically prioritize their review based on whether a project has contractual obligations (key dates) the developer is required to meet. This means that projects with FIT contracts (or other types of contracts, like RESOP) may be prioritized in terms of the review process.

The REA is applicable to *most*, but not all, renewable energy projects. For example, most waterpower projects are subject to the Waterpower Class Environmental Assessment process (called Class EA for short) and federal approvals.

Projects on First Nations reserves or other federal land is subject to a federal approval and, if a portion of the project (including ancillary connection facilities) extends beyond such land, the project could also be subject to the REA.

Projects that have federal funding would be subject to a federal approval in addition to a provincial approval.

Certain renewable energy projects are subject to a Federal Environmental Screening instead of, or in addition to, the REA. Some earlier renewable energy projects may also be subject to the Environmental Compliance Approval instead of the REA.

Anaerobic digestion (AD) facilities located on a farm may seek approval under the Nutrient Management Regulation O. Reg. 267/03 as a “Regulated Mixed Anaerobic Digestion Facility” instead of being regulated under the REA.

Most microFIT projects do not require a REA because they are not likely to cause significant environmental effects due to their small scale, though the *Endangered Species Act* (ESA), the *Ontario Heritage Act* (OHA), and potential Ministry of Natural Resources permits and other approvals still apply.

Below we summarize key information municipalities should know about the REA process, including:

- The importance of consultation for municipalities;
- Formal consultation requirements;
- The protection of natural heritage features and archaeological and heritage resources under the REA process;
- The REA decision; and
- Appealing REA decisions.

4.2.1 Consultation Requirements under REA

Under the REA process, developers must include in their REA submission package a Consultation Report that details all consultation activities that took place regarding the project.

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Developers are required to provide municipalities and local authorities with the Municipal Consultation Form, which allows municipalities the opportunity to provide written comments regarding municipal or local infrastructure and servicing. The developer's Consultation Report should also include the completed Municipal Consultation Form.

As part of the Consultation Report, developers must also meet mandatory notification requirements to ensure that municipalities are aware of their project plans. The REA notification requirements specify that, if applicable to the type of project:

- Notification of the project must be published in local newspapers and that it be provided to local municipalities, roads boards, planning boards and service boards;
- Notification of the first public information meeting 30 days in advance of the meeting being held;
- REA reports will be available for public review at least 60 days in advance of the final public information meeting and available for municipal review at least 90 days in advance of the final public information meeting;
- Notification of the final public information meeting 60 days in advance of the meeting being held;
- Notification of submission of the REA application must be published in local newspapers within 10 days of the notice being posted on the Environmental Bill of Rights (EBR) Registry.

Developers are also required to provide notification to a number of other people/organizations, including: land owners; Aboriginal communities; oil or natural gas pipeline companies; Transport Canada; and NAV Canada. In some cases, developers may approach municipalities for assistance in determining the appropriate contacts (for example, oil and pipeline companies in the area).

While consultation includes a number of formal steps, municipal consultation can occur at any point in the process before the developer finalizes its REA application. Consultation can take place through letters, phone calls, emails, meetings, and the like. Opportunities for a municipality to comment on a project are not limited to those set out in the Municipal Consultation Form. Developers must document all comments, and their responses to these comments, in the developer's Consultation Report.

4.2.1.1 Consultation Process Flowchart

The chart on the next page shows the consultation steps a developer must carry out and the timelines it must meet to receive a REA. These steps are explained below.

The level of community support and other public concerns, such as odour and noise, are assessed through the public consultation process. The municipality is responsible for providing comments specifically related to physical and safety aspects and other technical issues the developer should consider regarding the proposed project.

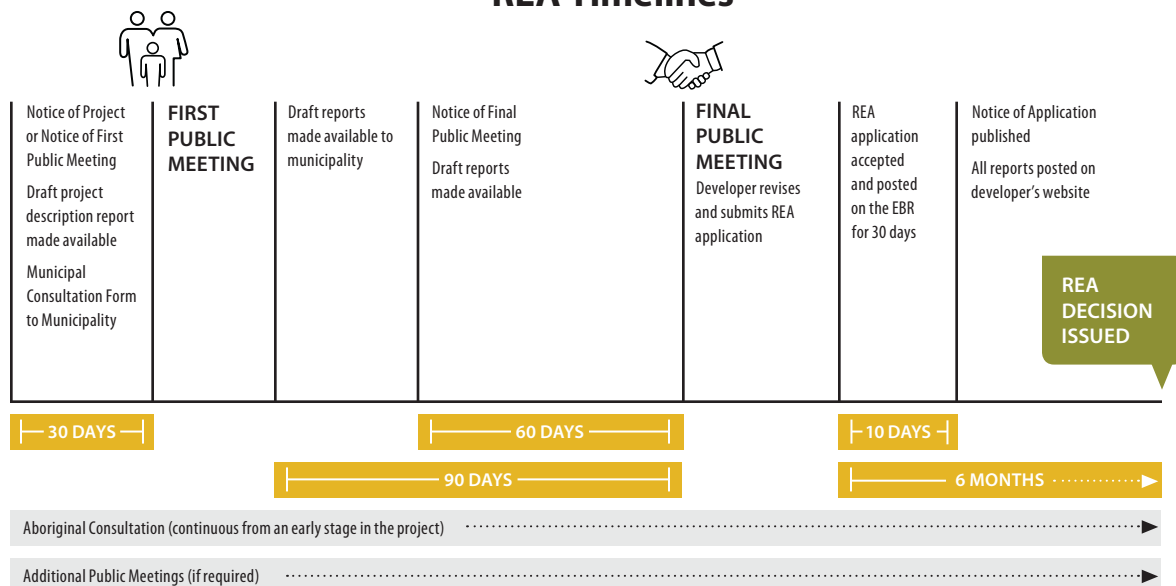
4.2.1.2 Public Meetings Required Under REA Process

Under the REA process, developers must hold a minimum of two public meetings. The purpose of the meetings is to provide the general public with information about their project and to gather feedback they will incorporate in their final project design.



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REA Timelines



4.2.1.3 First Public Meeting

At the first public meeting the developer officially introduces themselves and the project and makes a draft of the Project Design Report (PDR) available. The developer would also discuss how the project would proceed through the regulatory process and the expected timing of the studies and for the overall project. At this time, the developer also solicits comments on the components of the project including the design that has been determined to date.

Municipal officials may attend these public meetings to learn more about local projects and to provide input on considerations that are not part of the formal municipal consultation process.

Public meetings are not required for small projects, such as Class 1 and 2 thermal treatment and anaerobic digesters. When no public meetings are required, developers must still provide draft reports to:

- Each municipality in which a project is located;
- Aboriginal communities on the list obtained from the MOE; and
- The Niagara Escarpment Commission, if applicable.

The developer must provide the reports at least 30 days before it submits a REA application to the MOE.

4.2.1.4 Municipal/Local Authority Consultation Form

Developers must provide a Municipal Consultation Form to each municipality in which a project is located. The developer must submit this form at least 30 days before the first public meeting. You can find the form at:

http://www.ene.gov.on.ca/environment/en/resources/STD01_077034.html

The requirement that the developer complete the form guarantees that municipalities are made aware of planned projects before the first public meeting and increases the likelihood the developer will take municipal impacts and local community needs into account at the project design stage.



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The form solicits municipal comments with respect to:

- Infrastructure and servicing, including road access, traffic management, municipal service connections, and landscaping design;
- Emergency management procedures and safety protocols;
- Easements or restrictive covenants associated with the project location;
- Potential construction issues, including rehabilitation of temporarily disturbed areas and local infrastructure that could be damaged by construction, fire hydrants, connections to existing drainage, waterworks, sewers, and gas and utility lines;
- Building Code permits and licences;
- Any known issues with respect to significant natural features and water bodies; and
- Protected properties, archaeological resources, or heritage resources that may be relevant.

The municipal consultation form process is meant to enhance communication between developers and municipalities. It is not intended to limit ongoing discussions. The earlier information may be raised, the more likely a developer will be able to effectively address any concerns. The developer should submit the completed municipal consultation form to the MOE with its REA application, along with an explanation of how it has considered municipal comments in its project design. In cases where discussions between a municipality and a developer reach an impasse and the developer is unable to obtain a completed Municipal Consultation Form, if a developer is able to demonstrate evidence of trying to receive a completed Municipal Consultation Form from a municipality with no success, the developer may submit a REA application without it. The Environmental Approvals Branch of the MOE assesses the content and quality of municipal consultation. If a municipality raised concerns and the developer did not address them in the project design, the MOE may ask the developer for clarification about how the concern was considered. The MOE may also contact the municipality directly in certain cases.

If the MOE determines a developer did not meet the consultation requirements, the MOE has the authority to return the application until the requirements are met or to issue conditions of approval.

4.2.1.5 *The Final Public Meeting*

At least 90 days before the final public meeting, the developer must provide to the municipality a copy of all draft reports (except the Consultation Report and written confirmation and comment letters from the Ministry of Natural Resources (MNR) and the Ministry of Tourism, Culture and Sport (MTCS) with respect to natural and cultural heritage). In addition, 60 days before the final public meeting the developer must provide a copy of all draft reports to the public.

The purpose of the final public meeting is for the developer to demonstrate that it has addressed any comments and feedback, and to give the public another opportunity to review the documents and share their thoughts.

4.2.2 **REA Posting on EBR**

Once the MOE deems a REA application complete, the MOE posts a notice of the project on the Environmental Bill of Rights (EBR) Registry website at:

<http://www.ebr.gov.on.ca>

for a minimum 30-day public review and comment period. During this period persons, including



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municipalities, can provide additional comments and feedback through the EBR Registry. The MOE considers these comments in tandem with its technical review of the REA submission.

4.2.3 REA and Protection of Natural Heritage, Protected Properties and Archaeological and Heritage Resources

Under the REA, significant natural heritage features and archaeological and heritage resources are protected. Developers must determine if the project is located on a property protected under the Ontario Heritage Act, assess whether a project may impact archaeological and heritage resources, and identify significant natural heritage features near the project.

4.2.3.1 Natural Heritage Features

Natural heritage features, such as provincially significant wetlands, water bodies, and areas of natural and scientific interest, are protected under the REA. The REA also contains strict protections that apply to projects located within the Niagara Escarpment Plan, Oak Ridges Moraine Conservation Plan, and Greenbelt Plan areas.

Developers must identify significant natural heritage features near the project and ensure that the project conforms to the REA requirements for setbacks and mitigation around these features. As part of this process, developers are required to carry out a records review. As a result, municipalities can expect to be engaged by developers and consultants during the natural heritage assessment process.

4.2.3.2 Protected Properties, Archaeological and Heritage Resources

Protected Properties, archaeological, and heritage resources are also protected under the REA. Developers may contact a municipality to confirm whether the project is located on a property protected by that municipality under the *Ontario Heritage Act* (OHA). Municipalities must approve any proposed alterations to properties they have designated under Part IV or Part V of the OHA, or that are subject to a Notice of Intention to Designate, as well as any properties that are subject to a municipal easement agreement. Developers must submit the municipality's written authorization as part of their REA application.

Because developers for projects in prescribed classes must also verify with the municipality whether the project is in an area identified in a Municipal Archaeological Management Plan, municipalities should try to have up-to-date Archaeological Management Plans in place.

Developers that choose to self-assess for potential archaeological and heritage resources may contact municipal staff for background information in order to fill out self-assessment checklists, which are available on the Ministry of Tourism, Culture and Sport's website at:

http://www.mtc.gov.on.ca/en/heritage/renewable_energy.shtml

Municipalities may also be contacted by developers' consultants for information as part of background research for full archaeological assessments or heritage assessment reports.

The Ministry of Tourism, Culture and Sport (MTCS) reviews archaeological assessments and heritage assessments prepared for projects seeking a REA. Once MTCS confirms that a report meets the requirements of the REA and other licensing requirements, the ministry issues a letter to the consultant who prepared the report, with a copy to the developer. If the MNR confirms that a project meets the REA natural heritage requirements, the MNR will issue a confirmation letter to the developer.



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4.2.4 REA Decision

The developer must publish a notice of its application in a local newspaper and it must post all application materials on its website within 10 days of the REA application being posted on the EBR. The application must remain on the developer's website until the MOE issues its decision.

The MOE issues a decision on the REA application within 6 months from the date it deems the application complete. Notice of the MOE's decision is posted on the EBR, along with a summary of the MOE's comments and any conditions that may apply to the project.

4.2.5 REA Appeals

Under Ontario's *Environmental Protection Act*, anyone, including a municipality, may notify the Director and the Environmental Review Tribunal (ERT) that they wish to appeal the MOE's decision regarding a REA. The appeal, which must be in writing, must be made within 15 days of the issuance of the REA decision. The notice of appeal must set out:

1. A description of how the renewable energy project will cause:
 - i.) serious harm to human health, or
 - ii.) serious and irreversible harm to plant life, animal life, or the natural environment; and
2. The relief sought.

The ERT has six months from the day the notice to appeal was served to render its decision on a REA appeal.

You can find details about how to launch an appeal in: "A Guide to Appeals regarding Renewable Energy Approvals under section 142.1 of the *Environmental Protection Act*" at:

<http://www.ert.gov.on.ca/english/guides/index.htm>.



4.3 ENVIRONMENTAL ACTIVITY AND SECTOR REGISTRY (EASR)

The Ministry of the Environment (MOE) has implemented an Environmental Activity and Sector Registry (EASR) that allows businesses to register certain activities with the Ministry. As explained earlier, the EASR is a public, web-based self-screening system where people engaging in selected activities can register the activity and meet eligibility and operating requirements set out in regulation, rather than seeking an approval through the normal application submission and review process. To maintain and enhance the protection of the environment, registered activities are subject to compliance tools, such as audits and field inspections.

The MOE is considering allowing developers of certain types of renewable energy projects to take advantage of the EASR. A provision has been added to the REA regulation to exempt persons who engage in a renewable energy project from the obligation to obtain a REA if the project activities are prescribed under the EASR. The MOE is considering regulations for small-scale ground-mounted solar, on-farm anaerobic digestion, and landfill gas electricity generation. If implemented, instead of proceeding through the REA process, eligible small-scale solar and bio-energy projects would be required to self-register with the ministry and meet project-specific eligibility and operating requirements.

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4.4 CLASS EA FOR WATERPOWER

Waterpower projects continue to be regulated by the Class Environmental Assessment (Class EA) under the Electricity Projects Regulation⁵ made under the *Environmental Assessment Act*. The MOE oversees the Class EA process. The *Environmental Assessment Act* formally recognizes the Class EA process for projects where effects to the environment are predictable and are able to be mitigated and, therefore, do not warrant an individual EA.

The Class EA is the key process for waterpower development, though additional permits and approvals are also required from the MNR and the federal government. Waterpower projects producing 200 MW and up require a so-called “individual environmental assessment” which is a more rigorous assessment.

Because most riverbeds are Crown land, developers of waterpower projects must also apply to the province for a release for access to the riverbed.

The Class EA acts as a planning, evaluation, and consultation framework that facilitates the design process. It requires developers to consider the potential effects to the environment of a proposed project and the significance of these effects using the best information available in order to make an informed decision about how or whether a project should proceed.

Common issues identified through the Class EA process that require mitigation involve: fish and fish habitat; water levels and flows; and competing or complementary interests of nearby land owners, water users, and water-related natural resource users.

4.4.1 Formal Consultation Requirements under the Class EA

Consultation is a mandatory feature of the Class EA. The type and content of consultation depends on the project, but developers are expected to consult with local municipalities as key agencies. Generally, notification and consultation is required at the initial planning stage, at points during the Class EA process, and at completion of the Class EA documentation. In addition, developers must engage Aboriginal communities that may have an interest in the project.

4.4.2 Notification Requirements under the Class EA

At the outset of the project, the developer must provide a Notice of Commencement to local municipalities and other key parties. Developers should reference the Waterpower Class EA for specific details on the required content of this notice.

You can find more information about the Class EA on the Ontario Waterpower Association’s web site at: <http://www.owa.ca/class-ea/>

4.4.3 Class EA and Protection of Natural Heritage and Archaeological and Cultural Heritage Resources

Like the REA, the Class EA protects natural heritage features and “cultural heritage resources”. “Cultural heritage resources” is a broad term that refers to archaeological resources, areas of



5 O.Reg. 116/01

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archaeological potential, built heritage resources, cultural heritage landscapes and marine archaeological sites.

As the OWA indicates⁶, because water power projects may occur in areas of the province without municipal organization, there may be fewer cultural heritage resources that have previously been identified. Developers must identify potential cultural heritage resources and attempt to address possible effects to them through the appropriate technical studies. Examples of property with archaeological potential include proximity to (that is, within 250 metres) archaeological sites reported to MTCS or to a water source such as a lake, river, stream, and so on. Examples of potential built heritage resources or cultural heritage landscapes include: existing infrastructure that is over forty years old, locations within a designated Canadian Heritage River Watershed, or if there is Aboriginal or local knowledge suggesting that the project area has special association with a community, person, or historical event.

4.4.4 Class EA Decision and Elevation

Because the Class EA process is developer-driven, it does not result in an “approval” from the MOE. Instead, when the developer indicates to the public and the reviewing agencies that its Class EA is complete, it submits to the MOE a Notice of Completion. The developer must send a copy of the Notice of Completion to the parties who received a Notice of Commencement and the notice is posted on the EBR Registry.

Then, after the 30-day mandatory comment period, if the MOE does not receive any requests to elevate the project to an Individual EA, the MOE considers all possible concerns addressed and the developer files a Statement of Completion with: the MOE Regional EA Coordinator; the Director of MOE’s Environmental Approvals Access and Service Integration Branch; the District MNR Office; and the Ontario Waterpower Association (OWA). After that the developer must obtain the necessary permits and approvals. The EA itself does not confer any approvals.

If there are elevation requests, the MOE conducts a thorough review of the requests and the developer is expected to respond to the concerns outlined in the requests. If the MOE determines that an Individual EA is warranted, the developer will have to conduct additional studies and consultation to address outstanding concerns.

4.5 APPROVALS AND PERMITS ADMINISTERED BY THE MINISTRY OF NATURAL RESOURCES

The Ministry of Natural Resources (MNR) has a variety of approval and permitting requirements that may apply to a renewable energy project, depending on its location and potential impacts. Below are some of the approvals and permits administered by the MNR that are outside of the REA process but can be applicable to renewable energy projects.

4.5.1 The APRD– the Approval and Permitting Requirements Document

The Approval and Permitting Requirements Document (APRD) outlines regulatory requirements administered by MNR that could impact a renewable energy project. Approvals or permits may be required under various statutes, including:

6 <http://www.owa.ca/assets/files/classea/2012%20Class%20EA%20for%20Waterpower%20Projects.pdf>

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- the *Public Lands Act*;
- the *Lakes and Rivers Improvement Act*;
- the *Endangered Species Act* (more information about this act is provided below); and
- the *Fish and Wildlife Conservation Act*.

The MNR also administers the Conservation Authorities Act. Permission of the local conservation authority may be required for development or other activities in:

- river and stream valleys;
- the Great Lakes and shorelines of large inland lakes;
- hazardous lands (such as unstable valley slopes);
- water courses and wetlands.

4.5.2 *Endangered Species Act (ESA)*

The *Endangered Species Act* (ESA), which is administered by the MNR, protects Ontario's species-at-risk (SAR) and their habitats. Where protected species or habitats are present, the developer must assess the potential effects of all aspects of the renewable energy project (for example, construction, operation, retiring, and so on) on the species and/or habitat. This analysis must include the assessment of any potential off-site effects resulting from the proposed activity.

Developers may need permits from the MNR for actions that could adversely affect endangered or threatened species (known as "species-at-risk") and/or their protected habitats. As a result, to avoid project delay, developers should consult with their local MNR district office early in the planning and design processes. Through discussions with the MNR, the parties may determine that the developer is required to make changes to the proposed activity (that is, mitigation or avoidance measures, such as timing restrictions).

You can find additional resource materials regarding the MNR's ESA requirements and permitting process at:

- *Endangered Species Act* (ESA):
http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_07e06_e.htm;
- The MNR's Species-at-Risk Homepage:
<http://www.mnr.gov.on.ca/en/Business/Species/index.html>; and
- The MNR's Renewable Energy Homepage– Approval & Permitting Requirements Document for Renewable Energy Projects:
http://www.mnr.gov.on.ca/en/Business/Renewable/2ColumnSubPage/STDPROD_085026.html

4.5.3 *Access to Crown Lands*

For the most part, provincial Crown lands in Ontario are managed by the MNR under the authority of the *Public Lands Act*. Given that 87 per cent of Ontario's land mass is owned by the Crown, many renewable energy developers and communities may seek access to Crown land for their projects. Those interested in pursuing such opportunities should review the rules relating to the OPA's FIT Program and administrative arrangements as outlined on MNR's Renewable Energy Program website at: <http://www.mnr.gov.on.ca/en/Business/Renewable>.

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Municipalities that are aware of local projects developers may want to carry out on Crown Lands can direct the developers to the MNR's Renewable Energy Program website at:

<http://www.mnr.gov.on.ca/en/Business/Renewable> for further details.

4.6 MINISTRY OF TRANSPORTATION (MTO) APPROVAL

Renewable energy projects may also be subject to Ministry of Transportation (MTO) requirements. For projects located within, or adjacent to, a provincial highway, and/or within the MTO permit control area, developers must get the appropriate permits. You can find information about the types of requirements that may apply on the MTO's web site at:

<http://www.mto.gov.on.ca/english/engineering/management/corridor/encroach.shtml>

Municipalities that are aware of local projects that may be subject to MTO requirements can direct developers to the MTO regional office for further information and help.



4.7 NUTRIENT MANAGEMENT ACT, 2002 (NMA)

Developers of certain anaerobic digestion (AD) facilities may elect to be regulated under the Nutrient Management Regulation (O. Reg. 267/03) rather than the REA. In such cases, before issuing a building permit for a biogas system, the municipality must confirm that an approved Nutrient Management Strategy (NMS) is in place for the AD facility and that the NMS includes the biogas system.

You can find more information about the Regulated Mixed Anaerobic Digestion Facility Rules at:

http://www.omafra.gov.on.ca/english/engineer/facts/fit_prog.htm.

4.8 FEDERAL REQUIREMENTS

In addition to provincial and municipal approvals, developers may need approvals, authorizations, and permits from federal ministries or agencies. Federal requirements may range from simple notification to extensive approvals. In all cases, it is the responsibility of the project developer to ensure federal regulatory requirements are met.

- To determine if a project is subject to the *Canadian Environmental Assessment Act* (CEAA 2012), developers can refer to the *Designated Physical Activities Regulations*:
<http://laws-lois.justice.gc.ca/PDF/SOR-2012-147.pdf>
- If subject to the *Act*, the proponent must prepare a project description as outlined in *Prescribed Information for the Description of a Designated Project Regulations*:
<http://laws-lois.justice.gc.ca/PDF/SOR-2012-148.pdf>
- and *Guide to Preparing a Description of a Designated Project* (July 2012):
http://www.ceaa.gc.ca/63D3D025-2236-49C9-A169-DD89A36DA0E6/Guide_to_Preparing_a_Description_of_a_Designated_Project_under_CEAA_2012.pdf

General Information on *CEAA 2012* can be found at:

<http://www.ceaa-acee.gc.ca/default.asp?lang=En&n=16254939-1>

Information on regulations under *CEAA 2012* can be found at:

<http://www.ceaa.gc.ca/default.asp?lang=En&n=9EC7CAD2-1>

Some projects that require federal environmental assessment, such as waterpower projects, may also require provincial approval.

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Some projects only require federal approval, such as a project located wholly on federal land, such as an Indian reserve.

Regardless of whether a project requires a federal environmental assessment, the developer may also need to contact, or work with, federal bodies including, for example:

- Royal Canadian Mounted Police for wind facilities;
- Radio Advisory Board of Canada for wind facilities;
- Transport Canada and NAV Canada for turbine towers and for compliance with aviation requirements;
- Fisheries and Oceans Canada for projects in or near water that may impact fisheries;
- Environment Canada for projects that may impact migratory birds, weather condition monitoring, and so on;
- Parks Canada for projects near historic sites or national parks;
- Canadian Environmental Assessment Agency for projects on federal lands; and
- Aboriginal Affairs and Northern Development Canada (AANDC) for projects on reserve land or projects with AANDC funding.

Municipalities concerned about potential impact of wind projects on municipal airports should contact Transport Canada (with regard to lighting and marking of structures) and Nav Canada (with regard to air navigation and radar systems), as they are the governing bodies for aeronautics under the Aeronautics Act and Canadian Aviation Regulations.

4.9 MUNICIPAL-SPECIFIC REGULATORY MATTERS

Renewable energy projects can also be subject to Ontario's Building Code, which is enforced by municipalities. Projects may also be subject to municipal by-laws. This section highlights some of the types of municipal approvals that may apply to a renewable energy project and explains the GEA's impact on the Planning Act.

4.9.1 Building Permits

Municipalities are responsible for reviewing building permit applications and for issuing building permits. Many renewable energy projects require building permits, including:

- Structures that support a wind turbine generator having a rated output of more than 3kW are subject to the Building Code
- Solar panels or wind turbines mounted on buildings may require building permits.

Developers should check with their local municipal Building Department.

If a project requires a REA, the developer must obtain the REA before a building permit will be issued under the Building Code. Developers and municipalities should work together prior to the granting of a REA to address any issues that may delay issuing a building permit.



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4.9.2 Additional Municipal Permits and Agreements

In addition to building permits, renewable energy projects may be subject to other municipal permit requirements, for example, tree cutting permits, permits allowing the use of municipal land and road access permits. As well, municipalities may require developers to enter into agreements relating to municipally-provided services such as emergency response, sewer and water, and garbage collection.

Developers are expected to take responsibility for the costs of project development. Municipalities have statutory authority that may allow them to charge developers for certain types of costs, similar to fees charged for other types of development. For example, the *Municipal Act, 2001* (and the *City of Toronto Act, 2006*) may provide authority for municipalities to levy charges for costs impacting municipal infrastructure, such as road cuts, road access, occupancy permits, emergency response, sewer, water and waste collection.

Municipalities are also entitled to charge building permit fees (*Building Code Act, 1992* (BCA)). The amount of these fees may not exceed the cost to the municipality to administer and enforce the BCA and the Building Code. The Building Code set out what renewable projects can be subject to a building permit.

Municipalities can also recover from developers growth-related capital costs under the authority of the *Development Charges Act, 1997*, to the extent the renewable energy development gives rise to increased needs for eligible services.

4.9.3 GEA's Impact on the Planning Act

As a result of the GEA, renewable energy projects are subject to the REA process and are exempt from much of the *Planning Act*. The exemption from the Planning Act means that the following local planning instruments do not apply to, or affect, renewable energy projects:

- Official Plans;
- Demolition Control By-laws;
- By-laws or Orders passed under Part V of the *Planning Act*, including zoning, site plan, holding, and interim control by-laws; and
- Development Permit System By-laws.

Site plan and other agreements relating to renewable energy projects under RES and RESOP that preceded enactment of the GEA are not affected by the changes to the *Planning Act*. In addition, renewable energy projects that propose the creation of new lots, or require land leases longer than 50 years, continue to be subject to the land division process under the *Planning Act*.

Municipalities hold broad powers under the *Municipal Act, 2001* to pass by-laws to ensure the health and safety of local communities, as long as the by-laws do not come into conflict with any provincial or federal act, regulation, or other instrument of a legislative nature. However, as green energy projects are exempt from most land use planning instruments under the *Planning Act*, including zoning by-laws, municipalities cannot use their broad powers under the *Municipal Act, 2001* to restrict the use of land for such projects.

Municipalities are authorized to pass by-laws for property standards under the *Building Code Act, 1992*. Municipalities also pass by-laws for matters such as noise, odour, vibration, site alteration, tree



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protection, and outdoor illumination, through the *Municipal Act, 2001* and the *City of Toronto Act, 2006*. Application of these by-law powers is limited for certain types of renewable energy projects set out in regulations, including roof and wall mounted solar projects and ground source heat pumps.

4.9.4 Municipalities and Priority Renewable Projects

Under a GEA regulation (Ontario Regulation 15/10), certain renewable energy projects and sources are designated priority projects under the GEA. For designated priority projects, most municipal by-laws that would prevent or restrict such projects or sources do not apply. Certain local and provincial restrictions related to health, safety, heritage and the environment continue to be in effect, however. For example, local by-laws preserving trees or cultural heritage properties apply to designated priority projects, as do a number of provincial laws, such as the *Building Code Act, 1992* and the *Endangered Species Act, 2007*.

The following are designated priority projects:

- roof or wall mounted solar photovoltaic (PV) systems;
- roof or wall mounted solar thermal systems that heat air;
- roof or wall mounted solar thermal water systems that heat water; and
- ground-source heat pumps.

4.9.5 Approvals Related to Grid Connection

Transmission and distribution systems have technical limits, which limit the amount of electricity that can safely and reliably flow through the electrical grid. FIT projects that apply for connection in certain parts of the province may not be able to connect due to the limited capacity of the transmission and/or distribution system to accommodate the generation project.

A project can either be transmission-connected or distribution-connected. During FIT application assessment, the OPA assesses connection availability as follows:

- Transmission-connected projects: For contracting purposes, the OPA assesses whether it is likely that there is sufficient transmission capacity available at a proposed connection point using a technical screening test known as the Transmission Availability Test (TAT).
- Distribution-connected projects: There must be sufficient capacity on all levels of the distribution system and upstream transmission system in order to connect a project. For contracting purposes, the OPA assesses whether it is likely that there is sufficient transmission capacity available at a proposed connection point using the TAT, and works with the applicable LDC to screen for available distribution capacity using the Distribution Availability Test (DAT).

The TAT and DAT are screening processes and as such do not ensure ability to connect the project. If a generator receives a FIT contract, the project would then be subject to one or more impact assessments that may be required by the system operator, transmitter or LDC.

Interested applicants are encouraged to consult with the applicable LDC or transmitter prior to submitting a FIT application. LDCs and/or transmitters may need to seek additional approvals for changes to their existing systems associated with grid connection. These approvals have associated timelines which can affect the project.



5.0 MUNICIPAL ECONOMIC DEVELOPMENT



In this section, we discuss the following economic development issues related to renewable energy projects that are relevant to municipalities:

- Spurring Local Economic Development
- Municipal Costs and Fees
- Property Taxes
- Neighbouring Property Values

5.1 SPURRING LOCAL ECONOMIC DEVELOPMENT

Renewable energy projects can bring many benefits to municipalities. During the construction phase, for example, they can produce construction jobs. As well, skilled professionals and trades people often remain in municipalities where there are a number of renewable energy projects. And, because of the GEA's domestic content rules for provincial products and services, manufacturers and suppliers of goods and services used in renewable energy projects are adding production capacity that creates jobs in Ontario municipalities.

Projects can also result in additional economic development benefits—local development means that those people are spending money in the local municipality—rental homes/hotel accommodations, food, gas, goods and services, etc.

Municipalities that have developed their own projects, or that have partnered on projects can benefit from increased revenues. Municipalities that host projects on their municipally-owned property—regardless of whether they are active partners in the project—can earn rental revenue from the project. Funds municipalities earn from renewable energy projects can be re-invested in other local projects.



5.2 MUNICIPAL COSTS AND FEES

As a result of the GEA, municipalities may be uncertain about how they can recover fees from developers related to potential municipal costs that may result from renewable energy projects.

Municipalities retain authority to recover incurred costs for certain activities under certain Acts, such as the *Municipal Act, 2001* and the *City of Toronto Act, 2006*. For example, municipalities may still charge fees to developers for the use of municipal property. As well, municipalities may negotiate with developers for fees and reimbursement of costs the municipality may incur in deciding whether to grant formal Council support of the project.)

Municipalities should consult a legal professional to determine how legislation, such as the *Development Charges Act, 1997*; the *Municipal Act, 2001*; the *City of Toronto Act, 2006*; and the *Building Code Act, 1992* might apply in specific circumstances.

5.0 MUNICIPAL ECONOMIC DEVELOPMENT

5.3 PROPERTY TAXES

In January 2012, the Ministry of Finance introduced new rules governing the property tax treatment of renewable energy installations⁷. The rules, which are effective as of January 1, 2011, apply to facilities that generate electricity using solar energy, wind energy, or anaerobic digestion of organic matter.

Here is a summary of the property tax treatment of different types of renewable energy projects:

- **Rooftop Installations**– the assessment and tax classification of property does not change because of the addition of a renewable energy installation on the rooftop of a building.
- **Ground Installations**– the property tax treatment of property with a ground installation depends on the size and location of the facility and who is conducting the generation, as outlined below.
- **Generation as an Ancillary Activity, Not by a Corporate Power Producer**– for energy generated by a person not ordinarily in the business of electricity generation, transmission, or distribution, and where the generation is ancillary to another activity on the same property, the following rules apply.
 - **Small-size** ground installations (generation capacity up to 10 kW) do not result in an increase in assessment or a change in tax classification.
 - **Medium-size** ground installations (generation capacity over 10 kW up to and including 500 kW) are taxed based on the surrounding land use (for example, residential, farm, multi-residential, commercial).
 - **Large-size** ground installations (generation capacity over 500 kW) are taxed based on the surrounding land use for the proportion of assessment up to 500 kW, and at the industrial rate for the proportion over 500 kW.
- **On-Farm Anaerobic Digestion**– anaerobic digestion facilities located on a farm and operated by the farmer are taxed at the farm rate.
- **Generation by Corporate Power Producer**– ground-based generation facilities operated by entities whose primary business is the generation, transmission, or distribution of electricity are taxed at the industrial rate.
- **Wind Turbine Towers**– wind turbine towers are assessed at the rate of \$40,000 per MW of installed capacity, except for rooftop installations and small ground-based installations (in other words, those that produce up to 10 kW).
- **microFIT installations**– renewable energy installations under the microFIT program do not affect the property's assessment.

5.4 RENEWABLE ENERGY PROJECTS AND NEIGHBOURING PROPERTY VALUES

Municipalities may get questions or comments from residents about the potential impact to their property value from a wind project or other large renewable energy project on property that adjoins their property. The Municipal Property Assessment Corporation (MPAC) collects data to identify properties near wind energy projects and analyzes sales of those properties to see if there is any resulting impact on value. Currently, the MPAC analysis of sales has not indicated that the presence of wind turbines that are either abutting or in proximity to a property has either a positive or negative impact on its value.

⁷ Ontario Regulation 282/98



6.0 MUNICIPAL SUCCESS STORIES AND BEST PRACTICES



Since the introduction of the GEA, many municipalities have embraced renewable energy. Indeed, some communities have taken an especially proactive approach, adopting policies aimed at both reducing their carbon footprint and encouraging renewable energy projects in their areas. Some have gone even further, developing—or partnering with their Local Distribution Company in developing—renewable energy projects on municipal properties.



In this section we highlight some of the ways municipalities are taking the lead on renewable energy projects and look at how they are reaping the benefits of the GEA. At the end of this section we provide some of the “best practices” that have surfaced from these municipalities’ experiences.

6.1 CAMBRIDGE, City of

The City of Cambridge has been active in renewable energy projects and governance of such projects. The City took the initiative in 2009 and applied for a FIT contract and, as a result, it is the licensed operator of a 20 kW roof-top solar panel project on its public works facility. To pay for the project the City of Cambridge applied for federal and provincial infrastructure money for two-thirds of the cost, with the City paying the balance. The project was completed in March 2011 and is earning revenue of \$20,000 annually from the sale of electricity generated by the roof-top system. The project was so successful that the City hopes to expand the facility to generate 60 kW in 2013.

Besides developing its own projects, the City is open to leasing other municipal rooftops for projects. The City supports such proposals because it wants to encourage renewable energy even though the rental revenue from such projects will be minimal.

6.2 CHATHAM-KENT, Regional Municipality of

Having a good working relationship with developers of wind projects has paid off for the Municipality of Chatham-Kent. Long before the GEA, the municipality had been a supporter of renewable energy; wind turbines have been a part of the local landscape for quite some time. When the municipality learned that a developer was interested in installing 124 wind turbines near the local airport, some businesses expressed concerns about airport safety. When local officials looked into the matter they found that the proposal was in compliance with NAV Canada requirements, but the municipality thought that as good corporate citizens the developer might agree to fund further airport upgrades. Due to a good working relationship with the developer and others in the wind industry, the municipality got the developer to contribute up to \$2.5 million for upgrades to the airport, including an extension of a runway, a new automated weather observation system, and additional safety features.

6.0 MUNICIPAL SUCCESS STORIES AND BEST PRACTICES

6.3 KINGSTON, City of

The City of Kingston has taken a leadership position on renewable energy and energy conservation in general. Utilities Kingston, which is owned by the City of Kingston, helped plan 11 microFIT solar panel projects and a 250 kW FIT project on municipally-owned buildings. Utilities Kingston has also been active in helping develop the workforce needed to support renewable energy. Using a course developed by St. Lawrence College, Utilities Kingston has trained linespersons to work safely on a grid with increasing levels of small and micro-size distribution generators. The local LDC, Kingston Hydro, offers free consultations to developers of renewable energy projects to help them navigate through the application and regulatory process.

Recognizing that it plays a significant role in the development of renewable energy projects, the City's Planning and Development Department has developed a framework for how the City reviews and comments on renewable energy projects. Under this framework, City staff will provide timely and effective feedback intended to assist developers in moving their renewable energy projects through the review process. The framework also makes it clear that on-going consultation between the developer and the City's Planning and Development Department is expected.

As well, in recognition of the fact that processing Municipal Consultation Forms takes staff time, the Department proposed an amendment to the City's Fees and Charges By-Law so that the City can recover these costs from developers.

6.4 MARKHAM, City of

The City of Markham was an early proponent of solar energy. In early 2009 it began plans for a solar roof-top project on the Markham Civic Centre. When the City began planning the project, they did not expect to earn any revenue from it because the FIT program did not yet exist ;the City simply saw the project as fitting in with its principle of reducing energy, water, waste and emissions by 2050. As planning progressed, FIT 1.0 was announced and so the City applied for,,and got ,a microFIT contract for the project. The project was connected in December 2010 and since then the City has earned \$12,000 in revenue from the electricity it has generated.

The City has also developed a 250 kW FIT solar project on another City-owned building. That project, which was completed on schedule and under budget, achieved commercial operation in December 2010 and is expected to produce annual revenue of \$178,000.

In addition to its own projects, the City has also entered into leases for projects on six of its other buildings. These projects are expected to produce a total of 1.2 MW. By entering into such agreements the City is able to continue supporting renewable energy and earn revenue with no risk or capital outlay.

The City, along with the cities of Vaughan and Barrie, has also invested in their LDC's (PowerStream's) solar subsidiary. The returns on the shares of the solar subsidiary (which are held separately from its investment in the LDC), are projected to earn returns that are better than other investment instruments available to the City.

6.0 MUNICIPAL SUCCESS STORIES AND BEST PRACTICES

6.5 OAKVILLE, Town of

The Town of Oakville is very supportive of renewable energy as outlined in their Corporate Energy Management Plan and Environmental Sustainability Policy. The Town has approached the installation of solar panels on Town facilities through a partnership with its Local Distribution Company (LDC) Oakville Hydro Energy Services Inc. This has accelerated the number of solar panel installations on Town facilities as Oakville Hydro has the expertise in energy generation. The Town has chosen to lease roof space on many of its Town-owned buildings to Oakville Hydro and in exchange for hosting projects on municipal buildings, the Town earns rental income. Oakville's approach is another example of a municipality and LDC working together to implement renewable energy in their community.

6.6 TECUMSEH, Town of

One of the first municipalities to embrace the GEA was the Town of Tecumseh. In October 2010 the Town commissioned what was then the largest on-roof FIT solar project in the province. The Town's rationale for "going green", as the mayor puts it, was simple: to take advantage of the opportunities presented under the GEA.

The project, which involved installation of 2,212 panels on the 40,000 square foot roof of the Town's municipal arena, was the first solar project Essex Energy did. In essence, it was a test project for the wholly-owned subsidiary of Essex Power, the local LDC, which has since gone on to do many other solar projects. An unforeseen additional benefit of the project was the designing and patenting of a special bracket system for the solar panels that makes it easier to manipulate or change panels, as needed.

The way the project was financially structured was also innovative. The utility rents the roof from the Town, taking all the risk in terms of the installation. But, to help finance the \$3.2 million project, the Town bought \$400,000 worth of "Green Shares" from the LDC. The special preferred shares, which represent 12.5% of the cost of the project, pay the Town dividends of 7% for the first five years, and 11% for the next five years.

In addition to rental revenue and the Green Share dividends, the Town has directly benefitted from the jobs created by what the mayor describes as "a new economy". According to the mayor, the renewable energy projects have attracted young engineers and skilled workers to the area, much the way the automotive industry did 40 years ago.

6.7 BEST PRACTICES

Green Shares– Essex Power and the towns of Tecumseh, LaSalle, and Amherstburg have used Green Shares to help finance the cost of various solar panel projects on municipally-owned buildings. By subscribing for the special preferred shares the towns provide equity for the project and, in return, they receive a guaranteed annual dividend on the shares.

Earning Rental Revenue by Hosting Projects– Leasing out municipal facilities, such as roofs on publicly-owned buildings, is a no-cost way for municipalities who are not interested in developing or partnering on renewable energy projects to earn revenue, while fostering local jobs in the renewable energy industry.



6.0 MUNICIPAL SUCCESS STORIES AND BEST PRACTICES

Ensuring New Construction is Solar Ready– The City of Markham ensures that all newly built or planned municipally-owned buildings are built solar-ready. This means, for example, that the roof is designed to bear the additional weight of solar panels and the electrical systems and conduits are ready to be wired for solar. The rationale is simple: planning ahead to accommodate such installations in the future is more cost efficient than retrofitting.

Understand Your Roofing Condition– As the City of Markham puts it: understand your current roofing condition and plan for the future. The City replaced the roof below the 250kW array was installed on the Civic Center and it has collaborated with PowerStream to ensure the roofing on each of the leased sites is in good, or new, condition. As well, in its leases the City specifies that over the term of the lease the lessee will be responsible for repair or replacement of the roof, if needed, including the cost of removal and reinstallation of the solar array to facilitate such repair, and that the lessee will be responsible for removing the panels at the end of the lease.

Letting the Public See the Benefit– The City of Markham has installed a touch-screen kiosk in the lobby of the Markham Civic Center that allows people to see how the solar project on the roof is performing– in other words, what it's generating and, therefore, how the investment is paying off.

Developing a Formal Framework for Review of Projects– The City of Kingston's Planning and Development Department's detailed framework for reviewing renewable energy projects helps ensure the letter and spirit of the REA process are met, and provides transparency for developers as they navigate through the regulatory process.

Recovering the Cost of Staff Time– Because staff time is needed to process Municipal Consent Forms, the City of Kingston charges a fee for the service. The fee is set at a cost-recovery amount. So, the fee charged for larger applications is essentially the same as for a site plan. The fee is based on the staff time needed to do a technical review and circulation of all the background reports. A smaller application fee applies to less complicated projects. This fee is essentially an administrative charge much like any other city administrative charges for opening a file, reviewing the application, and so on.

Blanket Support Resolutions– The City of Woodstock has decided to support the construction and operation of rooftop solar projects anywhere in the City. To facilitate this, the City passed a resolution that it will provide municipal council support for all rooftop projects. In passing the resolution the City recognized that priority points awarded because of such support can help projects advance through the FIT contract award process. The City chose a blanket support approach rather than support on a case-by-case basis because it believes that rooftop solar should be supported across the city.



7.0 ADDITIONAL REFERENCES AND WEB LINKS

Biogas Association	http://www.biogasassociation.ca
Canadian Bioenergy Association	www.canbio.ca
Canadian Solar Industries Association (CanSIA)	http://www.cansia.ca
Canadian Wind Energy Association (CanWEA)	http://www.canwea.ca/
Class EA for Water Power	http://www.owa.ca/class-ea
Environmental Bill of Rights Registry	www.ebr.gov.on.ca
Ministry of Natural Resources	http://www.mnr.gov.on.ca
Environmental Review Tribunal Guide to Appeals by Members of the Public regarding Renewable Energy Approvals under Section 142.1 of the <i>Environmental Protection Act</i>	http://www.ert.gov.on.ca/stellent/groups/public/@abcs/@www/@ert/documents/webasset/ec081887.pdf
Ministry of Energy- Renewable Energy Resource	http://www.mei.gov.on.ca/en/energy/renewable
Ministry of the Environment- Guidance Materials for Renewable Energy Approvals	http://www.ene.gov.on.ca/en/business/green-energy/
Ministry of Tourism, Culture and Sport- Renewable Energy	http://www.mtc.gov.on.ca/en/heritage/renewable_energy.shtml
Ministry of Agriculture, Food and Rural Affairs (OMAFRA)- Nutrient Management Act and the FIT	http://www.omafra.gov.on.ca/english/engineer/facts/fit_prog.htm
Ontario Power Authority (OPA)	http://www.powerauthority.on.ca
Ontario Sustainable Energy Association	http://www.ontario-sea.org
Renewable Energy Facilitation Office	http://www.energy.gov.on.ca/en/renewable-energy-facilitation-office/

8.0 GLOSSARY OF KEY TERMS AND ACRONYMS

ACRONYMS AND DEFINITIONS USED IN THIS GUIDE

AANDC	Aboriginal Affairs and Northern Development Canada
AD	Anaerobic digestion
APRD	The Ministry of Natural Resources' Approvals and Permitting Requirements Document
BCA	<i>Building Code Act, 1992</i>
CanBio	Canadian Bioenergy Association
CanSIA	Canadian Solar Industries Association
CanWEA	Canadian Wind Energy Association
CEPP	Community Energy Partnerships Program
CIA	Connection Impact Assessment– a detailed assessment of a project's impact to the grid, conducted by the relevant distributor
CLI	Canada Land Inventory– a comprehensive multi-disciplinary land inventory of rural Canada, including soil capability for agriculture. Ground-mounted solar PV facilities are not permitted on Class 1 and Class 2 agricultural lands and Specialty Crop Areas, and up to a capped amount on Class 3 agricultural lands
Class EA	In this context, referring to the Class Environmental Assessment for Waterpower Projects
Connection Impact Agreement	An agreement that the developer must sign with the distribution company to allow the distribution company to recover the cost of connecting the project to the grid
DAT	Distribution Availability Test
Domestic Content	The FIT contract requires wind projects greater than 10 kilowatts (kW) and all solar PV projects to include a minimum amount of goods and services that come from Ontario
EA	Environmental Assessment

8.0 GLOSSARY OF KEY TERMS AND ACRONYMS

EBR	Environmental Bill of Rights
EPA	<i>Environmental Protection Act</i>
ERT	Environmental Review Tribunal
Environmental Registry	The Environmental Registry contains “public notices” about environmental matters being proposed by all government ministries covered by the Environmental Bill of Rights. The public notices may contain information about proposed new laws, regulations, policies and programs or about proposals to change or eliminate existing ones
FIT (FIT program)	Feed-in Tariff Program– A program run in Ontario by the OPA which provides standard pricing and standardized rules in order to promote the development of renewable energy projects larger than 10 kW in size
GEGEA	<i>Green Energy and Green Economy Act, 2009</i>
Greenbelt Plan	The Greenbelt Plan was established under Section 3 of the <i>Greenbelt Act, 2005</i> , to provide permanent protection to the agricultural land base and the ecological features and functions occurring on this landscape
Grid	The provincial transmission grid is a network of power stations, transmission circuits, and substations.
IESO	Independent Electrical System Operator
km	Kilometre
kW	Kilowatt
kWh	Kilowatt hour
LDC	Local Distribution Company (e.g., Chatham-Kent Hydro, Toronto Hydro or Cornwall Electric)
Load	A consumer of electricity
LTEP	Ontario’s Long-Term Energy Plan, released in November, 2010
microFIT	Micro Feed-in Tariff– aimed at projects that are 10 kW or smaller
MNR	Ontario Ministry of Natural Resources

8.0 GLOSSARY OF KEY TERMS AND ACRONYMS

MOE	Ontario Ministry of the Environment
MPAC	Municipal Property Assessment Corporation
MTCS	Ontario Ministry of Tourism, Culture and Sport
MTO	Ontario Ministry of Transportation
MW	Megawatt
MWh	Megawatt hour
Municipal Consultation Form	A formal way for municipalities to ensure that municipal needs are taken into account by the project developer under the REA process. The Municipal Consultation Form should be submitted as part of the REA application submission to the MOE
NMA	<i>Nutrient Management Act, 2002</i>
NEC	Niagara Escarpment Commission
Niagara Escarpment Plan	The Niagara Escarpment Plan serves as a framework of objectives and policies to strike a balance between development, preservation and the enjoyment of the Niagara Escarpment
OEB	Ontario Energy Board
OFA	Ontario Financing Authority
OHA	<i>Ontario Heritage Act</i>
OMAFRA	Ontario Ministry of Agriculture, Food and Rural Affairs
OSEA	Ontario Sustainable Energy Association
OWA	Ontario Waterpower Association
Oak Ridges Moraine Conservation Plan	The Oak Ridges Moraine Conservation Plan is an ecologically based plan established by the Ontario government to provide land use and resource management direction for the land and water within the Moraine.

8.0 GLOSSARY OF KEY TERMS AND ACRONYMS

PDR	Project Description Report– a component of the REA application submission that will be circulated to municipalities for review and comment
PPS	Provincial Policy Statement, 2005
PV	Photovoltaic
Price Adder	The incentive offered to Aboriginal and community-owned projects under the FIT program because these projects face barriers and higher project costs not encountered by commercial developers
REA	The Renewable Energy Approval issued under <i>Ontario Regulation 359/09</i>
REFO	Renewable Energy Facilitation Office
RES	Renewable Energy Supply
RESOP	Renewable Energy Standard Offer Program– a previous Ontario renewable energy procurement program.
Renewable Energy	In this context, referring specifically to solar photovoltaic (PV), wind, waterpower, and bio-energy (biogas, including landfill gas and bio-mass) types of technologies
Right-of-Way	An easement associated with a linear corridor (e.g.– a provincial highway) reserved for the purposes of maintenance or expansion of existing services with the right-of-way
SIA	System Impact Assessment– a mandatory assessment that a connection developer requests the IESO to conduct in order to assess the impact of the connection proposal on the reliability of the integrated power system. For transmission connected projects over 10 MW in size
Specialty Crop Areas	Where specialty crops such as tender fruits (peaches, cherries, plums), grapes, other fruit crops, vegetable crops, greenhouse crops, and crops from agriculturally developed organic soil lands are predominantly grown, usually resulting from factors including suitable soils and/or climatic conditions, skilled farming knowledge and availability of related facilities and services to produce, store, or process specialty crops

8.0 GLOSSARY OF KEY TERMS AND ACRONYMS

TAT	Transmission Availability Test
Time-stamp	The date and time a FIT application was received (post-November 2009 FIT applications are assessed in order of timestamp)

