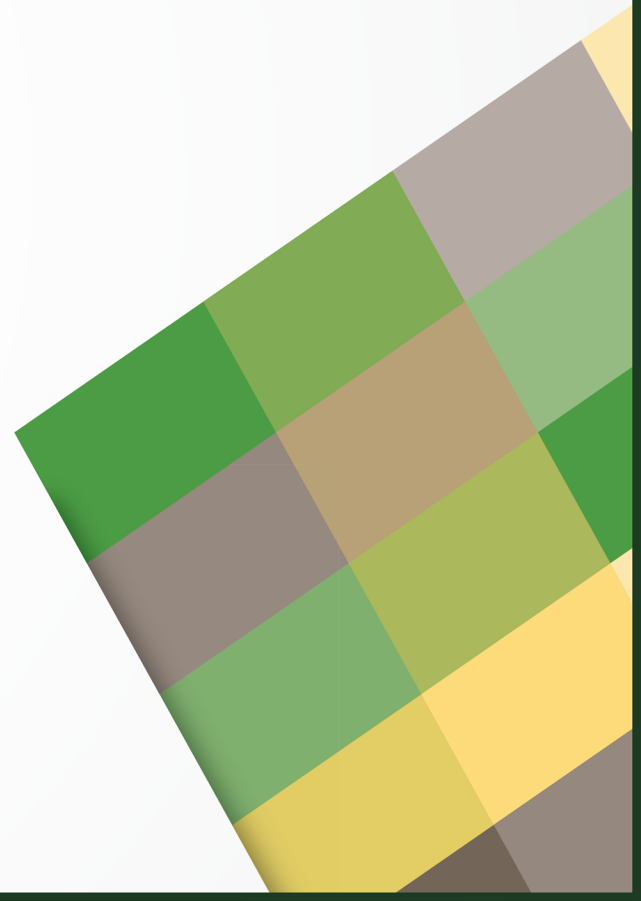


RURAL ONTARIO MUNICIPAL ASSOCIATION

Navigating Approvals for Energy Procurement





JANUARY 20, 2025

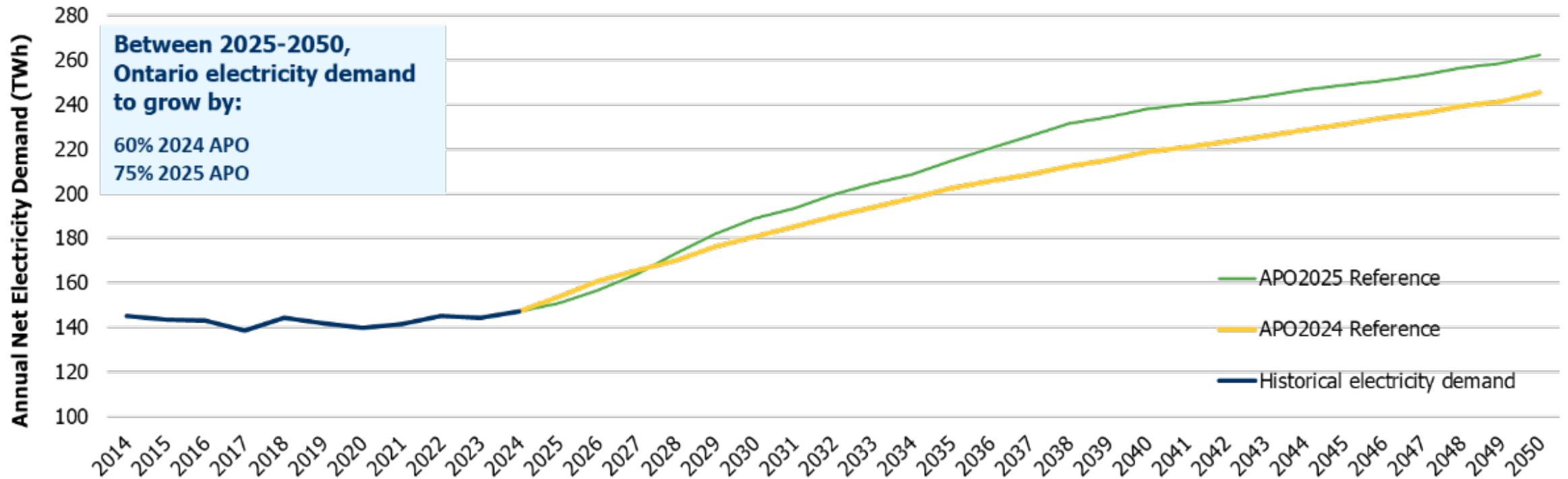
Long-Term 2 Request for Proposals

Concurrent Session: Navigating Approvals for Energy Procurements

Barbara Ellard, Director, Resource and System Adequacy

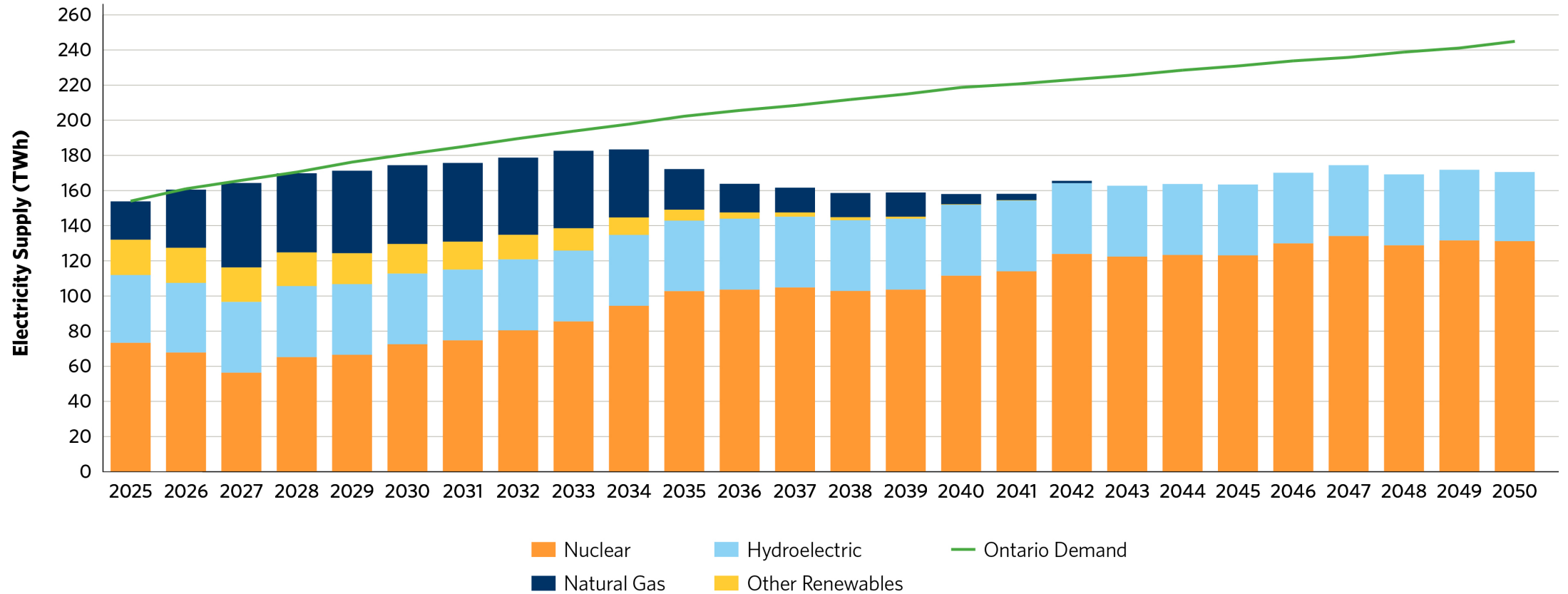
Ontario's Changing Electricity Landscape

Ontario Electricity Demand Historical and Forecast



Energy Supply

Energy Adequacy Outlook



Addressing Electricity Needs

To address the emerging needs, a multi-pronged approach is being implemented to maintain our reliable, affordable and sustainable electricity system. Key details include:

Secured largest energy storage procurement in Canada to meet needs for this decade.

More procurements on the way, through the Long-Term 2 RFP to meet needs starting in 2029.

Supporting the expansion of nuclear and transmission in key areas.

New electricity trade agreement with Quebec to optimize the use of existing electricity generation capacity.

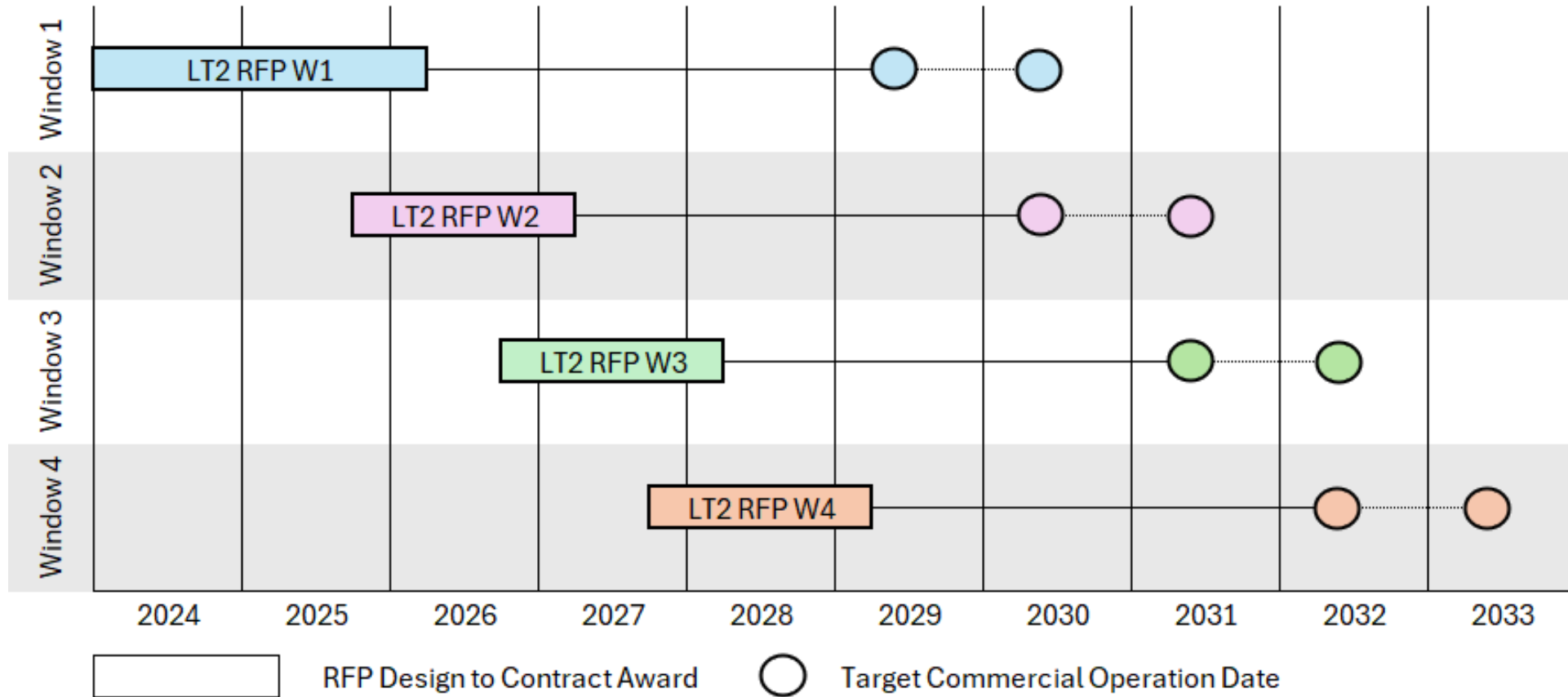
New Electricity Energy Efficiency Framework to provide opportunities for residential and business electricity consumers to manage their electricity use and electricity costs.

Several other initiatives are planned or underway for existing and new resources.

Active and Upcoming Procurements

Mechanism	Key Details
Medium-term Procurements	Secures existing energy and capacity resources 5-year periods MT2 RFP is in evaluation period
Long-term Procurements	Secures new build energy and capacity resources; procurements executed annually Draft LT2 RFP currently posted for stakeholder feedback
Capacity Auction	Acquires short-term capacity needs from existing resources Executed annually at year-end
Small Hydro Program	Secures existing hydroelectric facilities under 10 MW Program open and accepting applications
Northern Hydro Program	Secures existing hydroelectric facilities over 10 MW Program under development
Local Generation Program	Program under development with a goal to secure existing and new small-scale resources
Long Lead Time Resources	Procurement for projects with long-lead times Procurement in early design phase

LT2 RFP Annual Submission Windows



*Timelines are provided for illustrative purposes; number of windows subject to change

LT2 RFP Overview

The IESO was directed on November 28 to undertake annual long-term procurements, referred to as windows, to meet the needs emerging in 2029 to 2034.

Energy:

- 14 terawatt-hours (TWh) of resources able to inject energy at all times (approximately 6,000 MW)
- E.g., bioenergy, wind, solar, CHP

Capacity:

- 1,600 megawatts (MW) of dispatchable resources
- E.g. gas, storage, bioenergy

LT2 RFP Window	Energy Target	Capacity Target
Window 1	3 TWh	600 MW
Window 2	1-3 TWh	400 MW
Window 3	2-4 TWh	300 MW
Window 4	2-4 TWh	300 MW

Proposed LT2 RFP Window 1 Timelines

- IESO is expecting to finalize the LT2 RFP documents before the end of Q1 2025.
- The IESO has proposed that proposals for the Energy stream would be due July 2025 and Capacity Proposals September 2025.
- Contract award will be four to six months after proposals are submitted.
- The same timelines would be applicable to each subsequent annual window.
- IESO is currently reviewing stakeholder feedback on the proposed timelines.

LT2 RFP Key Elements

- ✓ **A Municipal Support Confirmation will be required ahead of proposal submission for all proposals.** The IESO is encouraging developers to conduct early engagement with Indigenous communities and municipalities to understand community preferences and needs
- ✓ **Rated criteria will apply to recognize projects that are situated in northern Ontario,** defined as being within the collective territorial Districts of Kenora, Rainy River, Thunder Bay, Cochrane, Algoma, Sudbury, Timiskaming, Nipissing, Manitoulin and Parry Sound.
- ✓ **LT2 RFP has land use requirements and projects that avoid Prime Agricultural Areas will be incented through rated criteria points.** Solar is prohibited from locating in prime agricultural areas; all other projects will need to satisfy the Agricultural Impact Assessment requirement.
- ✓ **Projects will undergo a deliverability process** to ensure resources can contribute effectively to reliability.

Municipal Engagement

- ✓ **Developers have to engage early** to understand community engagement requirements and to confirm land-use of proposed project site.
 - Developers have to provide a **pre-engagement confirmation notice** in their proposal.
- ✓ **Provide Municipal Support Resolution** – serves as confirmation that municipality is supportive of the proposal submission to the IESO.
 - If project is located within a Prime Agricultural Area, a proponent is required to consider alternative project sites to the satisfaction of the municipality.
 - Proponents are required to attest that the form of Municipal Support Resolution has not been amended or revoked in advance of proposal submission.
- ✓ **After a contract is issued**, municipalities developers will work with the municipality on development, zoning, site plan, and any other local approvals, as required.

Engagement on the LT2 RFP Since January

The IESO has taken steps to ensure timely access to information to aid decision-making to support the development of the LT2 RFP, including:



Hosted **5 Community Webinars** and sharing key updates



Attended **12 Municipal Conferences**



~**600 Indigenous and municipal** webinar participants

Next steps:

- Final procurement documents to be released in late February/early March.
- Opportunities to participate in municipal engagements, including a municipal roadshow.

Thank You

ieso.ca

1.888.448.7777

communityengagement@ieso.ca

www.ieso.ca/community



@IESO_Tweets



linkedin.com/company/IESO

Community Benefit Agreements 2.0

2025 ROMA Conference
January 20, 2025

Lisa Asbreuk

Partner

Corporate/Commercial/Energy Law

Cunningham Swan LLP

lasbreuk@cswan.com

613-546-8080

Full service law firm

- Business Law
 - Corporate legal advice
 - Commercial legal advice
 - Contracts
- Energy Law
- Real Estate Law
- Municipal Law
- Land Use Planning & Development Law
- Environmental Law
- Technology, Intellectual Property (IP) + Trademarks
- Litigation

Smith Robinson Building

27 Princess Street Suite 300

Kingston, ON K7L 1A3

www.cswan.com



Ontario is procuring new waves of electric energy projects.

1

- E-LT1 (BESS + gas turbines) (construction complete)
- LT1 (BESS + gas turbines) (in construction)
- LT2 (pending, will open 2025)**
- LT3
- LT4
- LT5



2

Project siting is a volunteer sport.
Willing host landowners and
municipalities are critical.

3

Ontario needs more electricity generation (and dispatchable assets) quickly, but the Government of Ontario does not build renewable energy or battery projects. The private sector does.

4

Renewable energy + battery projects stand on 4 legs:

1. Power offtaker (buyer)
2. Capable developer
3. Landowner host
4. Accepting municipality

5

What makes those legs firm, reliable, and financeable over 20-25 years? Contracts.

1. Power offtaker (buyer) **Power Purchase Agreement (PPA)**
2. Capable developer **\$\$ Loan + Security Agreements**
3. Landowner host **Option / Lease Agreement**
4. Accepting municipality **Community Benefits Agreement (CBA)**

What is a Community Benefit Agreement? (CBA)

A CBA is a legally binding contract between an **energy project development company** and the **municipality** capturing what has been agreed for compensation and benefits to the community.

Typically materializes in discussions related to the municipality's support of proposed energy or infrastructure project which will have impacts on the community.



Role of a CBA

A CBA is a mechanism for community minded developers to document their promises and commitments to help the community adapt and be fairly compensated for hosting a private sector for-profit business project.

It can share wealth and prosperity, and it can help a municipality respond to a proposed development which will bring change to the community.

CBAs can help balance benefits and impact.

Role of a CBA

Conceptual possibilities (subject to municipal law):

- **Workforce Development Commitments:** Targeted hiring, apprenticeships, and training for local workers or disadvantaged workers
- **Local Economy Spending Commitments:** Direct or encourage reasonable procurement from local businesses and organizations where possible
- **Community Investment Commitments:** Funding for public services, infrastructure

Community Involvement

- **Community Engagement:** the community can be involved in crafting a CBA which aligns with local needs, and ensuring the developer remains committed to the CBA promises after project commercial operation date (COD):
 - Designing terms and conditions
 - Implementation
 - Disseminating community funds
 - Post-COD monitoring and oversight

CBA trends

- **Growth in Energy Sector CBAs:** Increasingly renewable energy (wind, solar, hydro) companies are embracing CBAs to firm up local support and tackle community opposition and impact concerns.
- **Reliable Compensation:** Payments may be based on project size (\$ thousands per MW per year) and are designed to be annual, have inflationary increase built in, and are a predictable and reliable source of revenue for the municipality.
 - *NOTE: total may be reduced by non-incremental property tax assessment increases received from the project



CBA lasting benefits

- **Full circle benefits:**
 - Revenues may be:
 - reinvested into local priorities
 - spread/shared evenly
 - crafted to reduce local energy bills
 - Revenue distribution assurances are documented for the community and the project owner



CBA lasting benefits

- **Full circle benefits:**
 - Gives due credit to good developers
 - Creates community goodwill and appreciation
 - May foster future energy projects
 - May help advance regional clean energy or energy resiliency goals
 - Municipalities use CBAs to influence development decisions, test which project companies are best for their area, be taken as a serious contractual counterparty, and respond to constituent questions about what is in it for the community.



CBA content

Modern CBA content may include:

- Where municipality will deposit and earmark the revenue
- Funds distribution discretion vs rules
 - Permitted spending
 - Community benefit fund allocation
 - Spending timing vs saving rules
- Reporting obligations to the asset owner company
- Reporting obligations to the community
- Appropriate recognition + branding of the asset owner company

CBA content

- Calculating + verifying payments
 - Asset owner financial disclosure obligations
 - Certain operational disclosure obligations
- Ongoing counterparty comfort
 - Rules on when and if security requirements may kick in
 - Remedies on payment default
- Decommissioning assurances

CBA content

- Consider rural emergency preparedness needs
- Training and funding for fire department and first responders?
 - Projects are generally considered safe and benign, but planning is prudent
 - BESS projects have unique considerations
 - Battery fires response and containment planning
 - Rural / volunteer fire department need to be ready for electric batteries generally
 - Contamination concerns from chemicals, including fire-fighting chemicals, must be understood (there is environmental contamination litigation about PFAS chemicals (forever chemicals) in many places now in Canada and the US).

CBA content

- Possible compensation for municipal resources review strain
 - Staff time
 - Shared help (county or regional level resources?)
 - Consultants
- Possible compensation for infrastructure construction, repair, maintenance, or new services requirements:
 - Roads and culverts
 - Wharf, terminal, bridges, etc
 - Water requirements
- **NOTE: Be mindful of what compensation cannot be compelled under municipal law, and limits of municipal powers.**

CBA content

CBA will include standard contract terms:

- Assignment (transfer) rules
- Notice rules
- Amendments rules
- Dispute resolution
- Default recourse
- No side agreements are binding (entire agreement clause)
- Etc.

businesslike approach

- CBAs are not a tool to attempt undue leverage or impose unreasonable terms.
- CBAs are not required by any law.
- CBAs are a tool to capture a voluntary deal reached.

businesslike approach

- Does your municipality wish to signal that it is open for energy project business, or closed for energy project business?
- Your negotiation conduct is your signal to the market, just as the project developer's negotiation conduct is their signal to you.
- Commercially unreasonable or unwelcoming municipalities become known as such, which may backfire on near term local economic development, and longer term environmental sustainability and energy goals.

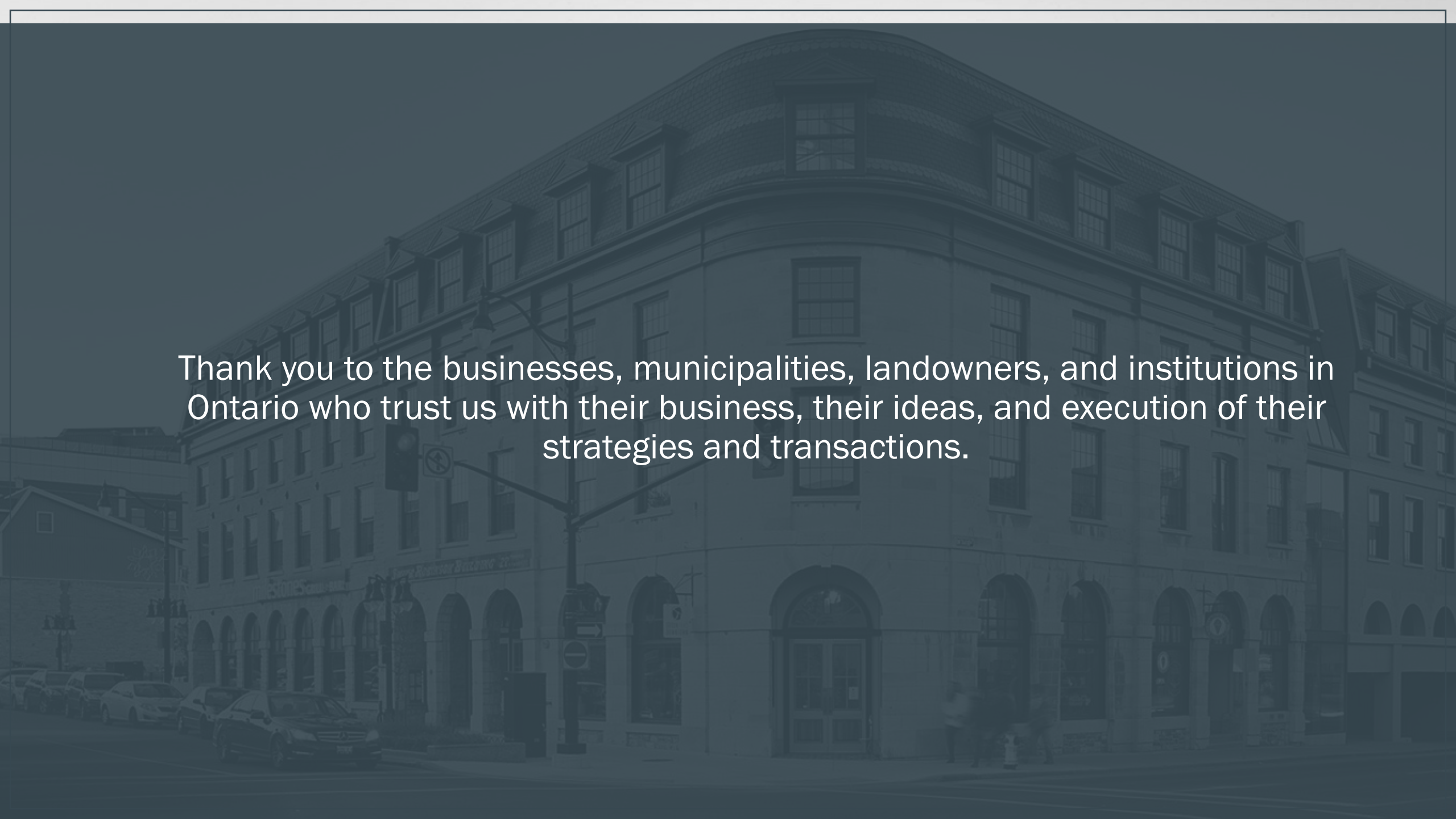
Recommendation to Government of Ontario

Rural municipalities need resources to seriously examine and consider rural projects which are now important for electricity supply and grid reliability for all Ontarians.

Many rural landowners and municipalities are open to hosting in sensible locations, see the benefits, and support clean energy for future generations, but want to be informed, make good decisions, and receive a good deal for their constituents.

Recommendation to Government of Ontario

- Rural municipalities need money for:
 - Understanding current agricultural lands considerations and *post-Green Energy Act* land use planning powers
 - Understanding MSR's dos and don'ts
 - Understanding construction and operation impact on infrastructure
 - Understanding end of life decommissioning obligations
 - Answering constituent questions
 - Due diligence on the proponent company
 - Due diligence on the proposed technology if new
 - Negotiating community compensation and revenue sharing
 - Legal advice on rights and opportunities
- Proponent companies have paid expert internal + external resources for all of this.
- Townships do not. Townships need to train or hire resources to cope with proposed projects, to have a fair chance at responding intelligently, and to avoid limited resources being pulled from core obligations and services.



Thank you to the businesses, municipalities, landowners, and institutions in Ontario who trust us with their business, their ideas, and execution of their strategies and transactions.



Lisa Asbreuk

Partner

Corporate/Commercial/Energy Law

Cunningham Swan LLP

lasbreuk@cswan.com

613-546-8080

Corporate lawyers



Lisa Asbreuk
Partner | Business Law /
Energy Law
lasbreuk@cswan.com
613.546.8080



Matt Benson
Partner | Business Law
mbenson@cswan.com
613.546.8084



Mike Brown
Partner | Business Law
mbrown@cswan.com
613.546.8063



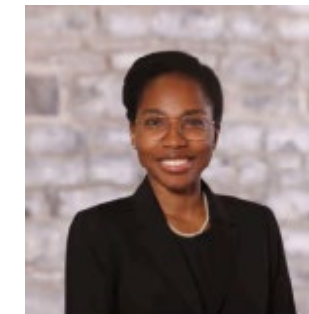
Rob Maratta
Lawyer | Business Law /
Trademark Agent
rmaratta@cswan.com
613.546.8085



Kent Williams
Lawyer | Business Law
kwilliams@cswan.com
613.546.8097



Austin Pammett
Lawyer | Business Law
apammett@cswan.com
613.545.3011



Zoe Umukoro
Lawyer | Business Law
zumukoro@cswan.com
613.546.9001

Municipal / Land Use Planning lawyers



Spencer Putnam
Lawyer | Municipal Law
sputnam@cswan.com
613.546.8098



Tony Fleming
Partner | Municipal Law
tfleming@cswan.com
613.546.8096



BRUCE COUNTY COMMUNITY DEVELOPMENT OFFICE

Navigating Approvals for Energy Procurements

RURAL ONTARIO MUNICIPAL ASSOCIATION CONFERENCE

JANUARY 20, 2025

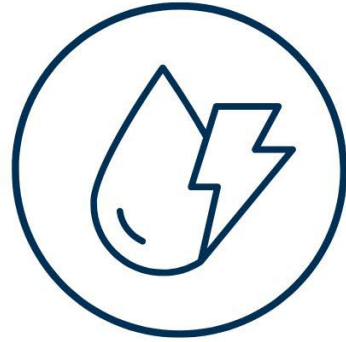


BRUCE
county

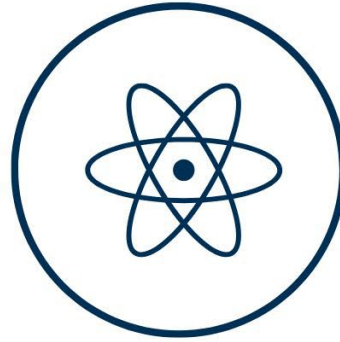
Bruce County



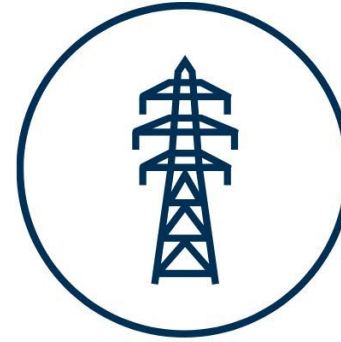
Bruce County - Powering Ontario's Growth



Hydrogen



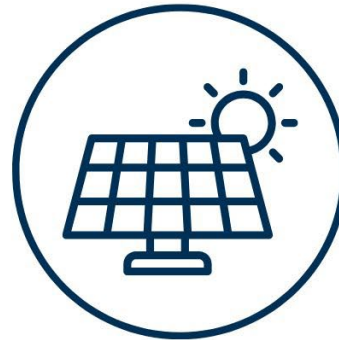
Nuclear



Transmission



Wind

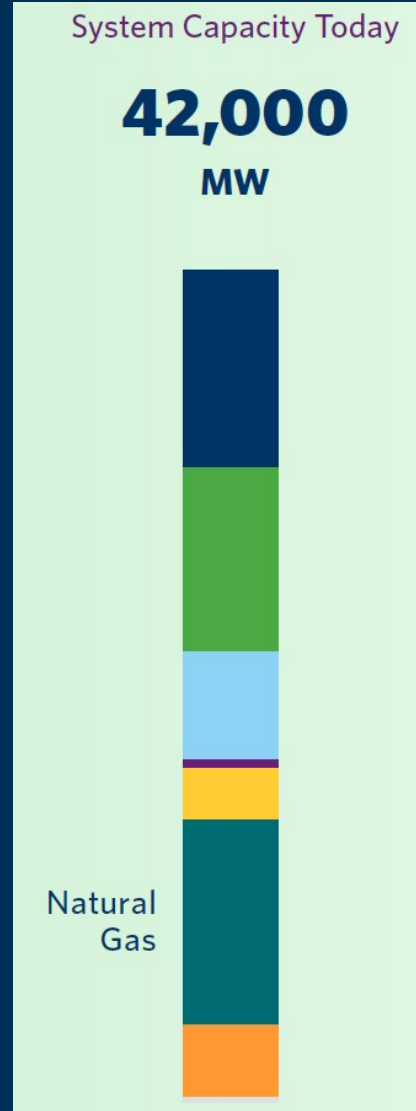


Solar



Biomass

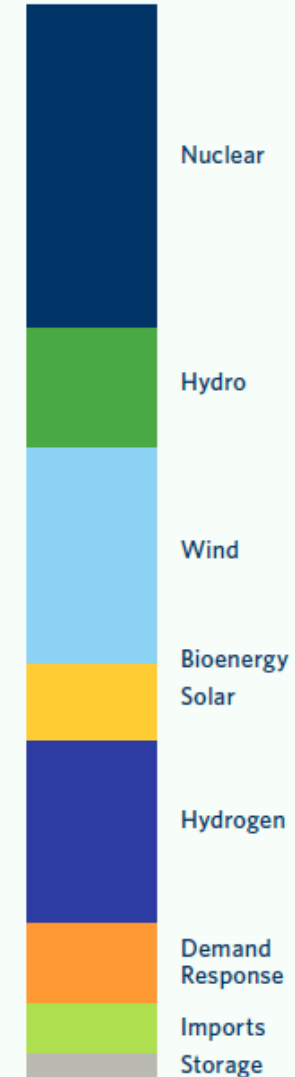
Ontario's Need for Energy is Growing



Pathways to Decarbonization Report, 2022

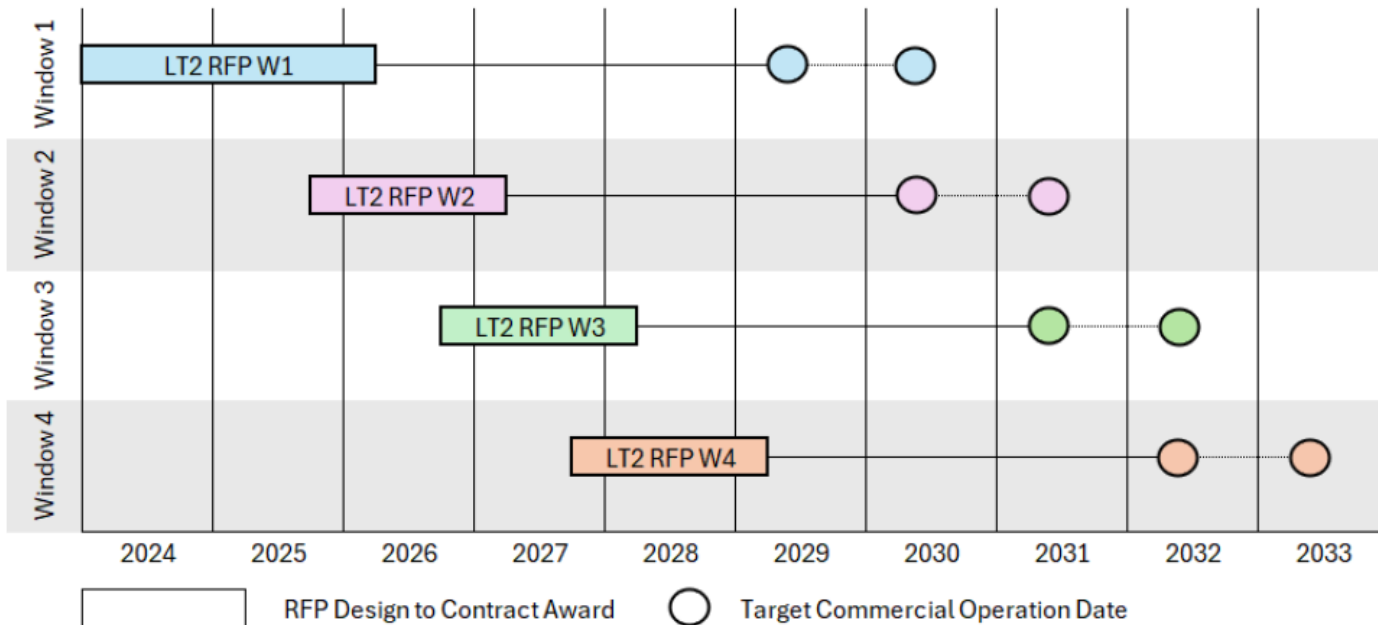
Pathways to Decarbonization
2050 Scenario

88,000
MW



IESO - Long Term 2 RFP Procurement for Large-Scale Energy Projects

LT2 RFP: New Windowed Approach (2)



Per the illustrative timeline, submission window #1 would have a **proposal submission deadline in Q3 2025**, with **contracts awarded in Q1 2026** and expected **commercial operation in 2029/2030**

Future submission windows are expected to follow this timeline.

Municipal Support is Central to the Long-Term (LT2) Energy Procurement Process

Pre-Engagement
on Energy
Projects

Municipal
Support
Resolutions

Evaluation of
Studies

Local Planning
Approvals

Participation in
Provincial
Approvals

Local Permits &
Agreements

Municipal Support Resolution (MSR)



1. Shows municipal support of a project
2. Willingness to explore proposal further
3. Does not commit to approve future Planning Act applications
4. MSR can be specific or cover multiple submission windows
5. Municipalities can decide the information required to support requests for MSR

Navigating Approvals for Energy Procurement on Prime Agricultural Land

- Ground-mounted solar prohibited on prime agricultural land
 - No projects permitted in specialty crop areas
 - Agricultural Impact Assessments required to assess impacts of energy projects on agricultural land
-
- Incentivizing projects in northern Ontario and outside prime agricultural areas





Actions for Municipalities

Navigating Approvals for Energy Procurement

Capacity Building

1. Build knowledge of LT2 RFP process by engaging with IESO
2. Create a pre-engagement process to screen projects
3. Develop guidance for municipal review timeframes
4. Update by-laws to establish fees
5. Establish expectations for capacity funding and community benefit agreements



Actions for Municipalities Navigating Approvals for Energy Procurement

Municipal Support Resolutions (MSR)

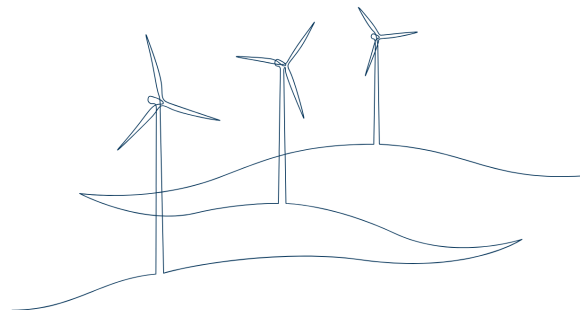
1. Determine standards for proponent engagement with the public, staff & Council prior to Council considering request for MSR
2. Establish minimum information and pre-conditions required before Council will consider a municipal support resolution
3. Engage planning & legal advice



Actions for Municipalities Navigating Approvals for Energy Procurement

Agricultural Impact Assessments

1. Establish process to evaluate alternate locations prior to IESO submission
2. Determine when to require Agricultural Impact Assessments
3. Engage qualified staff/consultants to peer review Agricultural Impact Assessments to determine if satisfactory





Actions for Municipalities

Navigating Approvals for Energy Procurement

Land Use Planning

1. Review policies to assess land use planning framework for energy projects
2. Determine planning application and required studies needed to evaluate planning applications
3. Consider policy updates for as-of-right permissions
4. Establish provisions for new sensitive uses near energy projects (e.g., reciprocal distances)

Needs of Municipalities

Navigating Approvals for Energy Procurement

- Municipalities need support to navigate the long-term energy procurement process, including:
 - Lead time to prepare
 - Access to specialized knowledge
 - Sustainable capacity funding
 - Guidance & best practice

A photograph of three wind turbines on a grassy hill at sunset. The sky is filled with orange and yellow clouds, and the sun is low on the horizon, casting a warm glow over the scene. The turbines are silhouetted against the bright sky.

BRUCE COUNTY COMMUNITY DEVELOPMENT OFFICE

Claire Dodds, Commissioner

cldodds@brucecounty.on.ca

Phone: 1-800-265-3005

www.brucecounty.on.ca





Questions and Answers



155 University Avenue Suite 800, Toronto, ON M5H 3B7
416.971.9856 | roma@roma.on.ca | www.roma.on.ca

