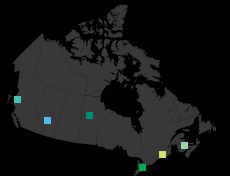




A Matter of
TRUST

THE ROLE OF COMMUNITIES
IN ENERGY DECISION-MAKING

Gas-fired
Power Facilities



Case Study
Oakville and King Township
Ontario

STEPHEN BIRD
NOVEMBER 2016



CANADA WEST FOUNDATION & UNIVERSITY OF OTTAWA

We would like to thank those who agreed to be interviewed for this study. Their insights and contributions were invaluable in preparing this report.

As is customary, any errors of fact or interpretation remain the sole responsibility of the authors.

Copies of the *A Matter of Trust: The role of communities in energy decision-making* report and the six case studies are available for download on the Canada West Foundation and Positive Energy websites.

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Scope and background of the **INTERVIEWS**

Regulatory decision or process under investigation

This case study is actually two comparative case studies, both focused on the siting of gas electricity generation plants in the outskirts of the Greater Toronto Area. The communities are the Town of Oakville (west of Toronto) and King Township (north of Toronto). The proposed gas plants were part of a province-wide initiative to upgrade and increase generation capacity in the wake of decisions to close or upgrade coal and nuclear generation plants. Through 2006-07, the Ontario Power Authority (OPA) engaged in an integrated power system planning process to determine the need for new facilities, including the facilities in Oakville and King.

Hearings on the power system plan were held in 2008. No issues were raised but the hearings only identified general regional needs, not specific sites. The hearings and Independent Electricity System Operator (IESO) process ultimately resulted in the successful siting of more than 30 electricity generation and transmission projects from 2006 until 2014. A competitive procurement process was used, in which developers would put together differing solutions (sites, facility design, locations) in response to a RFP (request for proposals). The province would assess the proposals through a point system.

Many (but not all) of the issues discussed in these case studies were addressed by a set of recommendations for planning and siting by the OPA

and the IESO in 2013, and by the merger of both entities in 2015. This case study includes a discussion of these recommendations in the discussion section.

Main elements of the case study stories

The two communities have both similarities and distinct differences. Both Oakville and King Township are affluent (median household income is approximately \$36,000). Recently arrived residents tend to live in high-value homes (> \$1 million) and have significant professional experience; people with longer ties to the area tend to live in older parts of the community and have somewhat lower incomes.

King Township is part of the greater York Region north of the Greater Toronto Area. Although its footprint is large, at 332 square kilometres, it only has approximately 20,000 residents. The York Region overall encompasses almost 1,813 square kilometres and has more than one million residents. Within King Township is King City, the largest population centre in King Township, with approximately 5,000 people.

Oakville is one of three major municipalities (with Brampton and Mississauga) in the southwestern section of the Greater Toronto Area. It has a population of approximately 180,000 persons and some of the highest value homes in all of Canada. It is adjacent to Lake Ontario and close to major transportation routes and significant industry.

TABLE 1: INTERVIEW PARTICIPANTS*Town of Oakville (TransCanada Gas Plant) and King Township (York Energy Centre)*

CATEGORY	PARTICIPANTS
Elected representatives (including Indigenous)	<ul style="list-style-type: none"> → Keith Bird, Oakville town council member (retired) → Rob Burton, Mayor, Town of Oakville → the Hon. Kevin Daniel Flynn, MPP Ontario Assembly (Oakville) → Debbie Schaefer, King Township councillor → Anonymous, Government representative
Civil society leaders (NGOs / activists)	<ul style="list-style-type: none"> → Frank Clegg, Citizens for Clean Air (Oakville) → Doug MacKenzie, Citizens for Clean Air (Oakville) → Andrea Scott-Pearse (formerly Loeppky), Concerned Citizens of King Township
Local energy developers and industry	<ul style="list-style-type: none"> → Rebecca McElhoes, Manager of Community Relations, TransCanada → Dave Van Driel, Director, Power Operations East, Veresen (formerly Pristine Power) → Anonymous – Energy Developer
Regulators (or other public authorities or experts)	<ul style="list-style-type: none"> → Colin Andersen, Chair, Ontario Power Authority → David Balsillie, Public Servant (Ret.), Forestry Professor (Ret.) & Environmental Consultant (Ret.) → Peter Fraser, Vice-President, Consumer Protection and Industry Performance, Ontario Energy Board → Jamie Smyth, King City Town Planner → Cindy Toth, Director of Environmental Policy, Oakville → Anonymous – Ontario Regulatory Community¹ → Anonymous – Ontario Regulatory Community → Anonymous – Ontario Regulatory Community
Local media and engaged citizens	<ul style="list-style-type: none"> → Julie Desjardins, citizen → Daniela Morawetz, President, Chartwell – Maple Grove Residents Association (Oakville) → Mark Pavilons, Editor, King City Sentinel

¹ The term “Ontario Regulator” refers to a variety of stakeholders and representatives in the Ontario regulatory community and can include the IESO, OPA, OEB, and OMB.

Unlike Oakville, King Township has low population density, a much smaller population, and significant “green” areas (part of the Toronto area’s Greenbelt – a legislatively protected ecological area). It also has the Holland Marsh agricultural area, as well as cattle and horse farms. Oakville’s population and density is much higher. It has significant industrial areas (a Ford Motor Company of Canada auto assembly plant and others) and challenges with air quality. Oakville’s proposed plant would have a capacity of 800-900 MW baseload electricity. King Township’s plant would be a 60 MW “peaker” plant (i.e., a plant that runs only when there is high demand) designed to be operated only 5-12 per cent of the time.

Oakville

In August 2008, the Ministry of Energy directed the Ontario Power Authority (OPA) to competitively procure a 850 MW combined cycle gas generation facility in the region. There were four bidders and sites (three sites in Mississauga, one in Oakville). The Oakville site was chosen, and Oakville residents organized resistance to the plant. In March 2009, Oakville city council passed an interim control bylaw to suspend progress while also engaging in substantive opposition activities based on environmental issues. The Government of Ontario signed the procurement contract with TransCanada Corporation (developer) in September 2009. The Ontario Municipal Board upheld Oakville’s bylaw in December, and a variety of other regulatory processes were used by Oakville to slow or stop the process. In October 2010, the provincial government cancelled the plant and engaged in negotiations and planning with TransCanada for an alternate location in Napanee, where the plant will be operational in 2018. Survey data shows that 58 per cent of respondents opposed (46 per cent) or somewhat

opposed (12 per cent) the project, and only 34 per cent supported (21 per cent) or somewhat supported (13 per cent) it.²

King Township

The need for the King Township generation facility was generally identified early in 2005 as part of an Ontario Energy Board (OEB) request to the OPA to address growing needs in the broad North York Region (and later as part of the broader Ontario Energy Plan). The initial regional consultation process demonstrates that nearby communities were opposed to transmission solutions, while citizens and members of King Township government were opposed to the generation solution. Throughout 2008, the OPA engaged in a competitive procurement process, ultimately deciding on the York Energy Centre in King Township.

The municipality, similar to Oakville, passed an Interim Control bylaw in January 2010. In July, the Ontario government passed Order in Council *Regulation 302/10* which exempted the generation facility from the *Planning Act* (specifically as concerned siting in the Greenbelt, an environmentally protected area) and also from local regulations (e.g., changes in local zoning or planning rules). Lawsuits from the Holland Marsh Farmers Association and the leader of Ontario’s Green Party to stop the plant were unsuccessful, as was a request by King Township to the Ontario Ombudsman to investigate the environmental assessment. In March 2012, the York Energy Centre began generating power and continues to do so as of summer 2016. Survey responses from 2016 indicate different responses on public support for the project from Oakville. Thirty-eight per cent opposed (19 per cent) or somewhat opposed (18 per cent) the project, whereas 54 per cent supported (23 per cent) or somewhat supported (31 per cent) the project.

² As noted in the main report, the community interview work was supplemented by public opinion surveys conducted by Nanos Research. Full results on the survey data will be made available separately, but the most interesting points of data for the two cases are integrated throughout this case study. Survey response numbers were different because Oakville (n=400) has significantly more people than King Township (n=200).

Factors affecting satisfaction in

THE ENERGY INFRASTRUCTURE SITING PROCESS

Factors identified by participants

Political interference. Representatives of every category of stakeholder, including provincial government representatives, expressed varying degrees of concern about perceptions (and the degree) of political interference. It is one of the most important factors in both cases. This was reinforced by survey data. More than 65 per cent of survey respondents expressed concerns for regulatory independence from government or industry.

In the case of the York facility in King Township, they expressed concern that community opposition to the York facility was ignored or had less influence because the riding was held by the opposition party. Further, they maintained that the 2010 exemption of the York Facility from the Greenbelt Act and local regulations (Order in Council *Regulation 302/10*) was a political act designed to target the King Township facility.

Residents and other stakeholders in Oakville claimed there was good reason to believe that the Mississauga sites and developers competing against Oakville were not chosen because of that city's powerful and influential mayor, Hazel McCallion. A variety of interviewees expressed the belief that Oakville's facility was cancelled because it was the riding of a member of the majority party, Kevin Flynn, who had opposed the facility (and his party on the

issue). Further, many reasoned that the signing of the contract with TransCanada after the Oakville cancellation was not necessary, and demonstrated their belief that the "fix was in." These contract signings have been a significantly contentious issue in Ontario, subject to ongoing judicial investigation well after the siting decision was made.

"Originally, there was local support for a power plant and its accompanying economic benefits, including from the mayor of Mississauga, who wrote a letter of support. Over time, as localized opposition became stronger, political support began to turn, both municipally and provincially. The Lakeview site where one of the coal plants had been closed would have been a logical place to site a new or relocated plant but the Mississauga mayor and minister had agreed that other development should take priority. A subsequent minister took the GTA entirely off the table for relocation. Each political decision affecting siting also affected replacement costs, ratcheting them up. The fact that the government had acknowledged that the plant cancellations were political in nature, and that it had in fact had some of its own direct discussions with proponents, further served to complicate relocation negotiations."

(Colin Andersen, OPA)

“[There were] a large number of political decisions that were made by the government that indicated they wished to run the power system as they wanted.”

(Anonymous)

“The obscenity of the situation is that someone got paid a billion dollars to do nothing.”

(Keith Bird, former Oakville councillor)

“The Empress of Mississauga (the mayor) made it quite clear that, politically, she would not countenance a new gas plant at Lakeview [the previous coal plant site in Mississauga].”

(Government representative)

Many perceived the Ministry of Energy and the Premier’s Office to be critical players in the process, despite the fact that at least some degree of regulatory independence was supposed to separate the OPA and the government. Many stakeholders argued for a higher degree of regulatory decision-making, in which decision processes could be more strongly shielded from political interference.

“When the Energy Minister is setting directives, you know it’s political.”

(Community opponent)

Information access and provision. A variety of different stakeholders in both Oakville and King Township were concerned with access and provision of information. In part, this occurred because much of the community consultation was occurring during the competitive procurement process. Thus, residents

had little idea whether they should expend energy on assessing a potential project because it was one of four or five different potential projects, some of which were in different towns. In survey responses, more than 40 per cent had concerns about the lack of information availability.

Residents were concerned they could not get all the information they wished for, that the information was not comprehensive, and that the information sessions did not allow for a consolidated public assessment of questions and answers (i.e., information sessions were fragmented information stations without a single public presentation or the ability to ask questions publicly). They also complained that response to questions was late, inadequate, or non-existent. Finally, they noted significant variation in information provision, depending on the different developers. Lastly, depending on context or concerns, information was available from 3-5 different developers, the OPA, the ministries of Environment and Energy, the IESO, and the OEB. There was no single place that residents, stakeholders, or others could go that would point them to the different sources of information, or differentiate which information was available from which source.

“The rigour associated with following up on community concerns is not like the requirements from the minister of the Environment to follow up on wind projects. In those, minutes are taken, questions are recorded, and the developer has to show that they have followed up on various questions.”

(Energy developer)

“The breakdown occurred at the release of the report (Action Plan: Clarkson Airshed Study)³ with the expectation for an open, transparent press release, and the Premier’s Office said there will be no release and it’s going to go on an obscure part of the website and if anyone can find it, good for them.”

(Anonymous)

“We had to develop specialized information retrieval in our organization for different areas, such as health, air, or safety. There were even times where we had to use Freedom of Information requests to get data.”

(Community opponent)

“The OPA never gave information. We’d ask questions, we’d do our own analysis, and would challenge their forecasted analysis of need. There was never any give and take. They’d have information boards up there but never answered any questions.”

(Debbie Schaefer, King Township councillor)

Some regulators noted the difficulty of assessing the adequacy of community consultation processes. In particular, they reasoned that developing such an assessment and implementing it could be a particularly resource-intensive and subjective process.

Multiple developers and locations. As previously discussed, the competitive procurement process meant that affected stakeholders needed to assess siting processes in multiple locations and among multiple potential developers. The process required that all community consultation occur prior to the final procurement decision and award to a single developer. This created extensive uncertainty in the process, a need for residents to try and determine

the probability that a developer would win the competition, and finally, the need to devote extensive resources to assessing 3-5 possible locations and engaging with the same number of developers.

Many stakeholders argued that significant community consultation should occur at both stages, or that the process should be revised so that the decision on location be made solely by the regulator with extensive community consultation before and after. In survey responses, more than 50 per cent were concerned about the lack of opportunity to influence the process, especially early on.

“If they had approached the town and gone through land use planning it could have been OK. It strikes me that this was done backwards.... I don’t think they properly analyzed the actual location. That’s the concern for NIMBY but we weren’t opposed to it, rather the community questioned whether it should be in the specific location with 3-4 schools so nearby.”

(Keith Bird, former Oakville councillor)

“The OPA was using the model of having the developer determine the specific site and taking on the risk of establishing that site. There’s an alternative model that folks have discussed where the government agency picks a site and then takes that site through the approvals process and different parties would bid on that specific site ... an agency would have to consider many more sites in that kind of process.”

(Ontario regulator)⁴

³ Action Plan: Report of the Air Quality Task Force. Southwest GTA Oakville-Clarkson Airshed. Prepared by Dr. David Balsillie, June 25, 2010. This resource is difficult to access. It is archived at <https://ia600308.us.archive.org/0/items/stdprod080778.ome/stdprod080778.pdf>.

⁴ The term “Ontario Regulator” refers to a variety of stakeholders and representatives in the Ontario regulatory community and can include the IESO, OPA, OEB, and OMB.”

“There was an unwillingness to accept alternatives [within the municipality]; we felt we were being labelled as NIMBY.”

(Community opponent)

Concerns for developer responsibilities. Residents, in particular, were concerned that all aspects of the community consultation process were the responsibility of differing developers. They reason that some aspects of the process should be overseen by the regulator, or with a higher degree of oversight from the regulator. Second, they contend that extensive variation among developers exists in their community consultation practices and actions, with some performing poorly and others at a much higher level.

“There was no feedback from the government or the OPA. We simply felt we were being ‘managed’ by TransCanada.”

(Community opponent, Oakville)

“The developer was supposed to do the interaction, and that is one aspect that we will have to do some learning from.”

(Ontario regulator)

“There were differences between the developers. Northland was really very good in giving information and explaining, whereas Veresen was not very forthcoming at all.”

(Debbie Schaefer, King Township councillor)

Some in the energy business argued that the RFP competitive procurement and pointing system was a

more robust and objective process than many other siting processes. They also said the system depoliticized the process and made it more truly competitive.

“The methodology that the OPA applied to ensure that the proper plant gets built, from every perspective and component ... is far more robust than any other jurisdiction that I’ve been a part of.”

(Energy developer)

However, they also noted that allowing community consultation could make them less competitive in the procurement process. Thus, the competitive procurement process among different companies with different sites seemed to reduce productive engagement with the communities.

“A competitive process, with a number of industry players proposing a facility at different sites and communities, provides decision-makers with more information on the relative merits/community concerns related to each site, but can also be detrimental, in that stakeholders may be engaged by numerous proponents with competing projects – each of which is sharing a great deal of highly complex project development information for their consideration. Stakeholders may also feel unsure of whether to engage, provide input, or share concerns with a particular proponent without knowing whether that particular facility will proceed to construction.”

(Rebecca McElhoes, Energy developer)

The development of trust; communication versus consultation. Many stakeholders observed that community *consultation* was required for the siting process. They noted the difference between

informing or communicating, versus consulting. A consultation implies the possibility of a change in plans derived from the interaction or conferral. Thus, many residents expressed unhappiness that most or all of the time it seemed as though they were simply being informed of what was going to happen, rather than actually consulting on or discussing potential options concerning all aspects of the process. Many argued that little consulting could occur because so little interaction and trust had been developed. In Oakville, 44 per cent of survey respondents felt that community concerns were not taken into account, and 54 per cent in King Township.

“There was never honest public consulting.”

(Rob Burton, Oakville mayor)

“They (the community) would have loved to have been a part of helping us choose a different site or location within the jurisdiction but that was not part of the process.”

(Energy developer)

“The OPA [competitive procurement] process was a legal process, not a stakeholder process.”

(Ontario regulator)

“The second Oakville open house had security people with body armour while they were telling us ‘We want to be a partner with the community.’?”

(Community opponent)

Transparency and appropriateness of process.

Residents expressed a concern that the process for decision was not transparent. This issue obviously has significant overlap with information dissemination in general, but residents and opponents specifically noted that gaining an understanding of the process in totality was either impossible or very difficult.

Survey responses seem to strongly support this viewpoint. The largest factor explaining public views on both projects was “Bad location/Dangerous/Unnecessary/Makes no sense.” Thirty-two per cent of the responses across both projects held this factor as their greatest concern. Further, 69 per cent (Oakville) and 64 per cent (King) of respondents indicated that they had little or no trust in public authorities to make decisions about energy projects.

“I’d be very surprised if the public knew. The OPA was not seeking input on the procurement process; the provincial planning process was where consultation was supposed to occur.”

(Anonymous)

“The whole process was a disaster ... we needed an explanation of the grand [overall] rules.”

(Community opponent)

“There were inconsistencies in the siting guidelines. We needed the right process to get the right site.”

(Hon. Kevin Flynn, Oakville MPP)

Community regulatory capacity and resources for local concerns or advocacy. Several interviewees noted the difficulty of effectively intervening, contributing to, or influencing the process because of a lack of resources and capacity to participate or provide opposition. Observers noted the difference between King City’s resources (pop. ~19,000) versus the resources of Oakville (pop. ~180,000). Several argued that Oakville’s success in fighting their generator came from the extensive connections and financial resources of its population.

“I believe the southeast Oakville postal code has the largest concentration of millionaires in Canada.”

(Keith Bird, former Oakville councillor)

“Oakville had the greatest challenge in terms of community acceptance, even though the procurement process showed it was the best project. As a wealthy community, they were able to make a lot of noise.”

(Anonymous)

Lack of appropriate concern and review for environmental impacts. In both cases, opponents expressed concerns that environmental impacts were not being fully reviewed to the degree necessary. This was within a broader understanding of the fact that the gas plants were ultimately replacing coal and/or nuclear facilities (sometimes temporarily) throughout the province. Concerns included air pollution impacts, proximity to pristine agricultural farmland (King Township), industrial land use including water use and extraction, and land fragmentation in protected environmental areas (esp. the exemption of the Greenbelt Act in King). More than 70 per cent of all survey respondents were concerned about local environmental impacts.

⁵ Note that this is the same for all infrastructure that is subject to the Environmental Assessment Act in Ontario.

“One of the engineers stated early in the process, ‘The Ontario Power Authority is not in the business of protecting the environment.’ That’s how they started, and it got worse. They weren’t just indifferent to these environmental concerns, they were hostile. Their justification was, ‘coal’s worse.’”

(Rob Burton, Mayor, Oakville)

“There was not a full environmental assessment; instead the review was done by the Ministry of the Environment with the requirement for a full assessment done at the minister’s discretion.”⁵

(Anonymous)

“It was going to be the number one polluter of PM 2.5 [air pollution standard] in the community, even more than the Ford plant.”

(Community opponent)

“This was a non-dispersive air shed with one of the highest incidences of asthma in Ontario.”

(Doug MacKenzie, Citizens for Clean Air, Oakville)

Lack of concern or appropriate venue to address safety issues. Opponents argued that safety was a significant concern for the Oakville site because of the proximity to housing, location on a major rail line, and nearness to chemical facilities and storage. In particular, many noted that the explosion of a gas facility in Connecticut in 2010 strongly reinforced the concerns they had been voicing. Many felt regulators and others dismissed safety concerns, and the 2010 incident reinforced their fears. Others also mentioned the Sunrise Propane explosion in Toronto that had occurred in 2008.

“The Connecticut plant explosion was the ‘Black Swan’ event that helped more than anything.”

(Keith Bird, former Oakville council member)

“There were real concerns for the local train activity and the ammonia storage both within a few hundred feet of the site.”

(Community Opponent)

Lack of a single venue to assess multiple, cumulative, and comprehensive impacts. Residents complained of the lack of a single venue to assess multiple impacts and cumulative impacts comprehensively. These included environmental impacts, effects on community character, safety, and economic consequences. Interviewees noted that in some cases, part of the regulatory process was perceived as fair, but while the process was balanced it did not address the right issues or concerns. The survey data reinforces these contentions. These kinds of concerns were the basis for opposition for more than 60 per cent of the residents who were opposed to the project in their community.

“They specifically avoided property value as part of the analysis and published documentation ... they dismiss you as NIMBY if you talk about property values.”

(Community opponent)

“Residential proximity and full consideration of alternatives were never considered in the process.”

(Julie Desjardins, Community resident)

“The siting process was not comprehensive, and was ill planned ... we need a holistic approach with “whole community” planning.”

(Hon. Kevin Flynn, Oakville MPP)

“The OEB was perceived as fair, but focused on the wrong issue.”

(Anonymous)

Lack of updated zoning. Regulators and residents expressed concern that municipalities did not seem to have updated zoning which reflected the newer realities of specific sites and areas. For instance, the Oakville site was still zoned in such a way that an electricity plant of any size should presumably have been acceptable. This was despite the fact that the previous generation plant was less than 10 MW in size and had last operated in the 1970s. Alternately, the new generation plant would have been 800+ MW in size, with new residences and other community buildings less than 150 metres away.

“The process should address current land uses, not past zoning that is completely out of date.”

(Julie Desjardins, Community resident)

“There were floodplain concerns [for the York plant] but the flood maps being used were not up to date for current climate change and extreme weather events.”

(Debbie Schaefer, King Township councillor)

Concerns for “unwilling hosts,” and NIMBYism.

Some regulators, residents and politicians noted their concerns that communities were unwilling to consider energy development of any kind. Characterizing opposition as NIMBYism, they reasoned that very few communities were willing to take on the development of energy facilities in areas where the need was high. The IESO’s provincial energy assessment had demonstrated increasing energy needs in both the southwest GTA (Oakville) and in the broader North York Area (King Township and King City).

Further, survey responses indicate that the public was aware that economic benefits for the province would accrue from the project. Seventy-five per cent of respondents in Oakville agreed (49 per cent) or somewhat agreed (16 per cent) that the project would lead to financial benefits for the federal and provincial governments. Sixty-one per cent in King agreed (28 per cent) or somewhat agreed (33 per cent) similarly. What is not clear, and is always generally hard to ascertain, is whether opposition was truly focused on issues or characterized by NIMBY concerns.

“The King plant is an innovative idea for peak energy needs tucked away in North King. ... [The York plant] was met with skepticism and fear about environmental impacts. Apparently, the public was not fully engaged in the preliminary process and many felt they had limited input into the decision-making. ... Now that it’s operating, the proverbial dust has settled and no one seems overly concerned any longer.”

(Mark Pavilons, journalist)

Multiple tiers of jurisdictional responsibility. Some interviewees noted that the differing levels of jurisdiction made it challenging to implement the siting process effectively. In the King Township area, this meant differences between the North York Region, King Township, and small municipalities such as King City. Earlier discussions in the York Region had examined transmission solutions in other municipalities that were rejected, and in which representatives of King Township and King City felt they had little influence, in part because of their size. Once the transmission solution was rejected, they felt that it was inevitable that King Township would end up with the generation plant.

“You have to know that the York Region is quite large and quite diverse in terms of number of municipalities. You cannot have one location to look at, there were multi-tier contacts.”

(Anonymous)

An important note on the OPA and IESO Planning and Siting Review. In May 2013, the minister of Energy asked the Ontario Power Authority (OPA) and the Independent Electricity System Operator (IESO) to develop recommendations for improving how large energy infrastructure projects are sited, and particularly to include local voices in the planning and siting process. The report, with 18 recommendations, was released three months later (IESO, 2013). This report addressed many, though not all, of the concerns described in this case study as shown in the following table. At a minimum, it demonstrates that the provincial government and regulators understood that aspects of the siting process could be improved.

TABLE 2: IESO RECOMMENDATIONS AND COMMENTS FOR SITING REVIEW

SITING ISSUE	RESPONSE IN PROVINCIAL REGULATORY REVIEW
Political interference	The issue of political interference by ministries of Energy or Environment, or by the Premier’s Office, is not addressed in the review. There seems to be little evidence that this concern, or the concern for regulatory independence from political activity be addressed (or even that it is a concern).
Information access and provision	There is clearly a strong emphasis and concern for this issue in the regulatory review, though details are not specified.
Multiple developers and locations	The procurement approach will continue, though perhaps with modifications. It is not clear whether “new mechanisms” can address the concerns of a community trying to navigate multiple developers.
Concerns for developer responsibilities	This issue may be addressed, depending on the specifics on improved procurement processes.
The development of trust; communication versus consultation	While there is a clear desire to improve trust and communication, it is not clear to what degree communities and stakeholders will be allowed input into decision-making processes.
Transparency and appropriateness of process	If “community outreach early and often” includes information about process, and improvements to the process, then this issue will be addressed.
Community regulatory capacity	There is an emphasis on incorporating municipalities into the process but not clear whether they will be provided resources needed to do their own assessment of issues.
Lack of appropriate concern, appropriate venue, and review for environmental and safety impacts	It is not clear when and under what circumstances environmental and safety concerns, or broader concerns generally, will be addressed. Broader criteria are supposed to be considered but details do not exist.
Lack of a single venue to assess multiple and cumulative impacts	There is no emphasis on the question of which entity could or should be a “one stop shop” for residents, advocates, municipalities to go to.
Lack of updated zoning	Concerns for municipal planning in the IESO recommendations would presumably address this question.
Concerns for “unwilling hosts,” and NIMBYism	Integrating communities into the energy planning process and needs assessment will mitigate these concerns to some degree.
Multiple tiers of jurisdictional responsibility	The plans of the IESO for integrating communities may address the multiple tier or competing community issue, but it is not clear this has been identified as a specific concern.

Similarities and differences across actor categories

Every actor group and type discussed concerns for **political interference** from the provincial government and ministries, even representatives that came from the provincial government itself, although that concern was not consistent across that group. In general, the concerns were characterized by the perception that regulatory independence was not strong enough, that decisions could be overridden by key actors in the ministry or the Premier's Office, and finally that decisions were made for political reasons beyond the scope of the siting process.

Residents, NGOs, and municipal-level representatives in government and regulation all had concerns for **information access, communication, and transparency**. Developers and provincial level regulators either argued that due diligence had been met in these areas, or that communities were satisfied with the level of information and communication. There were clear discrepancies in these areas. Some regulators and developers acknowledged weaknesses or concerns in these areas, but not to the same degree as the other actors.

A clear dichotomy existed between developers, government, and regulators versus community actors, NGOs, and local municipalities over the **competitive procurement process**. The former appreciated this process as being neutral, transparent, and fact-based in its development and process. Alternately, opponents expressed concern that the process had far too much uncertainty for residents and other local actors who would be impacted by a development.

Residents, opponent activists and NGOs were united in their concerns about the effectiveness and consistency of **developer responsibilities** in providing information and implementing consultation. They were further troubled by the **lack of serious**

consultation in planning and siting processes, and also for the **lack of a single venue to assess multiple and cumulative impacts**.

Municipalities joined residents, activists, and NGOs in their worry over the ability of municipal governments to have **the resources and capacity to engage effectively** in the process, and also for the problem of **multiple tiers of jurisdictional responsibility**.

Provincial-level government, developers, and regulators expressed trepidation for communities as **unwilling hosts, NIMBYism**, and in general the fact that residents were unwilling to take on the negative impacts associated with increased energy use in their areas. They also expressed concerns for the **lack of updated zoning**. Alternately, local governments and residents acknowledged that increased use had occurred and that the problem was that better solutions could and should have been found.

Community impressions on performance of regulatory process

Interviews with community groups, municipal actors, residents, and NGOs provided a near unanimous message that the process was unsatisfactory. This perspective covered almost all aspects of the process from beginning to end.

The process began early on with Regional Energy Assessments developed by the OPA in co-ordination with the IESO. These assessments provided an understanding of need in specific regional areas. The primary issue expressed here is that municipalities could have been more directly integrated into these processes. More importantly, many actors felt the explanation and discussion of need was not adequately demonstrated or communicated to relevant stakeholders. Nor were they convinced that needs were significant and

unavoidable. Finally, they were unconvinced that the potential options for responding to such need were not fully vetted.

Stakeholders expressed dissatisfaction with the competitive procurement process for the reasons discussed earlier. In large part, they described being unable to develop engagement and resources to devote to uncertain siting processes by several potential developers, in multiple locations. However, once the contract was awarded to a single developer, a significant amount of community consultation was considered to have been accomplished.

Finally, once the community response to a single site and developer began, many stakeholders were deeply dissatisfied with the opportunities to gain information, and with the fact that environmental or other forms of regulatory review seemed to be perfunctory and inadequate.

How do community interview findings compare to elite

INTERVIEW FINDINGS?

Elite interview finding #1

Decisions are hobbled by unresolved policy issues beyond the regulatory system, particularly on climate change and the rights and responsibilities of Indigenous communities. A more diverse set of environmental issues led by concerns about water and generally regional in scope comes in not far behind.

Reflections from community interviews:

While these unresolved policy issues are critically important, they were almost irrelevant in these two cases. Neither climate change nor Indigenous concerns were significant issues in this case.

Opposition was focused on quality and enforcement of the regulatory process, concerns for a lack of opportunity for community input and consideration of additional alternatives, and for the impression that the process was marred by political manipulation. In particular, the concerns addressed in this siting process were almost entirely local in nature, with an extensive focus on impacts from the developments on local environment, quality of life, safety, economics, jobs, and esthetics.

Elite interview finding #2:

Individual project decision processes have become the default mechanism for dealing with issues like climate change that go well beyond any single project. Regulatory proceedings are not suited to the task. Resolving the issue is essentially the business of policy-makers.

- Neither of the two Toronto-area gas-fired plant cases were focused on climate change. The concerns were not for the type of fuel, or for finding alternative sources of renewable generation. The major concerns were rather for the integrity of the process, particularly decisions on specific location.
- Environmental NGOs were involved only insofar as the protection of Greenbelt concerns were relevant in King Township, and in the Oakville case in terms of the air pollution impacts in the Clarkson Airshed from gas generation.

Elite interview finding #3

The way regulators should function is a big question. They should be open, engaged, informal, working in partnership with others, effective real-time communicators and yet somehow judicial, objective and guardians of the integrity of regulatory processes. No one should underestimate the complexities in reconciling that set of requirements.

- There is no doubt this issue was critically reflected in the GTA gas cases. In particular, there were significant concerns that regulators did not effectively implement open, engaged, informal partnerships.

- A serious question to be resolved is whether communities can be effectively integrated into the process in terms of true consultation, or whether regulators simply need to communicate more effectively. Much of the literature on siting, planning, and land use suggests that true consultation needs to occur, in which communities and citizens are actively involved in decision-making at least to some degree (and not just “recipients” of effective communication).
- Finally, with the exceptions of regulators themselves, there was a strong perception that the regulatory process was not objective, or at a minimum did not weight all issues appropriately, and secondly that integrity was undermined because of political interference.
- Finally, there is evidence that stakeholders in both Oakville and King Township were seriously engaged in the development of different solutions, alternative sites, and substitute or additional mitigation proposals to address their concerns. In some cases, the regulatory process did not allow for these discussions because the window for such discussion was supposed to occur prior to the procurement contract, and solely with the developer. Alternately, additional solutions and proposals were simply not considered because there seemed to be no regulatory “window” that allowed them to be considered.

Elite interview finding #4

Most broadly, communities need to be engaged early, often, and respectfully. Yet communities themselves, or at least individuals within them, have work to do to become informed and to act objectively, fairly and democratically.

- Again, there is extensive evidence that these cases demonstrate the need for more and higher quality engagement. It is not clear whether regulators need to take a stronger direct role in some of these activities, separate from the developer, or whether they need to be more proactive in ensuring that developers are doing a more effective job.
- In the Toronto-area cases, a significant concern for engagement was the fact that much of the engagement was seemingly supposed to occur prior to the competitive procurement decision. This made the work of communities and residents to become informed themselves extraordinarily difficult.

*Reflection and discussion on
interim report conclusions and from*

CASE STUDY

One of the strongest lessons to come from this case study is that it demonstrates how a lack of longer-term consistent energy policy from political leadership can create significant challenges in the regulatory process. Ontario's abandoned implementation of competitive energy markets created a need to quickly implement electricity generation across the province (to address the lack of new generation during the market experimentation phase). Further, the government was also trying to quickly implement a strong renewable energy program that required the closing of coal plants and the implementation of intermittent renewables on a very fast timeline.

These problems have some similarities to the discussions in the interim report on elite perceptions. The report cites the lack of political action and decision-making on issues of climate change and discusses how that creates challenging complications for the regulatory process in the siting of infrastructure. The political inability to create longer-term solutions and policies for critical issues can create inappropriate and strong pressures that the regulatory process may not be well-equipped to address. Thus, in the case of the Toronto-area gas-fired plant cases, extensive political pressure to interfere with regulatory processes occurred in part because of broader challenges related to market transformation and clean energy policy.

Second, this case study seems to reinforce the real need for a comprehensive approach to siting in Ontario, and that likely should be applied to all land use and energy infrastructure siting processes⁶.

Comprehensive or “one-stop-shop” approaches to siting provide a single point of contact for the public and stakeholders to gather information, understand and participate in the regulatory process, and allow for the widest variety of concerns to be addressed.

These comprehensive approaches are useful because they provide complete overview across time, among agencies, and are designed to address all concerns. An inclusive approach allows for a single process and point of contact over time, from the scoping and site identification to final approval, and after, in terms of enforcement and assessment of operations and mitigation mechanisms. Second, some regulatory authorities in North America have developed these processes as a way to bring all appropriate agencies and processes together into a single (albeit usually longer and more complex) process that reduces overlap and bureaucratic challenges and improves simplicity and public access to the process. Finally, this kind of scheme allows actors and stakeholders to address all aspects of siting – e.g., environmental impacts, community values and esthetics, economic concerns, indigenous issues, safety – in a single venue.

Third, many of the concerns concerning access to information and process have been discussed earlier in this study. Overall, they seem to demonstrate a lack of guidelines concerning expectations for public access to information and process. Until the 2013 provincial review by the OPA and IESO, there was no clear acknowledgement that access to information and process should be a goal of the regulatory process.

⁶ This issue was not identified by the interviewees as a specific concern but rather is identified by the author as a recommendation that would help to consolidate and focus regulatory authorities on addressing a variety of concerns mentioned in this case.

Fourth, the two cases as a comparison seem to demonstrate a critical concern in siting that all regulators face. While both King and Oakville are affluent communities, Oakville's greater size and resources allowed its municipality and its citizens to extend significant resources devoted to assessing and advocating the community's position regarding their plant. Community human, social and economic capital was extensive, and it allowed community leaders to exert extensive pressure on regulators and political leaders that was a factor in the cancellation of the Oakville plant.

Some might argue that the Oakville cancellation occurred because of the political goals (i.e., concern for currying favor in a district with an incumbent) in the provincial election; this was cited in the Auditor General report and the media (Auditor General of Ontario, 2013). However, the interviews in the case clearly demonstrate that the ability of opponents to gain media access and exert pressure in a wide variety of different contexts was also a critical factor in their ability to have the plant cancelled. The concern here is that regulators and developers have an underlying incentive to choose or target communities with fewer resources (financial, expertise, social capital) for the development of energy infrastructure. This is simply because the process of siting and gaining social acceptance is likely to be easier and/or less risky. These incentives can lead to situations of environmental justice or concerns for ethics in terms of which communities may be suffering potentially higher impacts, simply because they are less able to provide appropriate resources for improving the assessment of energy infrastructure in their jurisdiction.

Contentious siting issues for energy infrastructure can have significant costs, particularly when the process is aborted or cancelled because of a lack of social acceptance. A key weighted factor in assessing the facilities during the competitive procurement process was the economic benefits and costs. However, the

Oakville cancellation ultimately cost \$675 million over and above the original cost estimate, according to the Ontario Auditor General (OPA's estimate is \$310 million) (Auditor General of Ontario, 2013). It is not clear that the lack of significant community consultation and lack of comprehensive information that residents and stakeholders complained of was a result of the regulator, or developer attempts to save money. Certainly, there exist many examples of siting in which attempts to streamline a process or cut corners in terms of community consultation ultimately led to community disapproval, lack of social acceptance, lawsuits and cancellation of projects. Thus, the attempt to save money by reducing the public engagement process and needed resources can ironically cost much more money.

The gas-fired plant developments in the Greater Toronto Area provide a window on some of the significant challenges regulators face as they attempt to move forward the development of energy infrastructure in response to energy needs. A variety of significant issues have emerged in these cases, and many of them have been recognized and responded to by the IESO in Ontario. It is helpful to remember that from 2006 to 2012 the OPA was able to successfully site 19 other facilities and that the vast majority of these projects were successfully implemented without excessive controversy.

Clearly, the auditor general's report demonstrates that significant concerns for political intervention can be both costly and detrimental to the regulatory process. This analysis focuses more on the actual process for community input and acceptance of energy siting processes. As a result, a significant selection of concerns has emerged for consideration of siting processes that will be addressed in the overall case study analysis in this report.

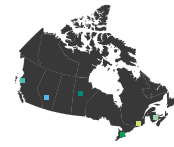
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The six case studies are available for download on the Canada West Foundation (cwf.ca) and Positive Energy website (uottawa.ca/positive-energy)



NORTHERN GATEWAY ENERGY PIPELINE

*Kitimat and Haisla Nation
British Columbia*



WESTERN ALBERTA TRANSMISSION LINE (WATL)

*Eckville and Rimbey
Alberta*



WUSKWATIM HYDROELECTRIC FACILITY

*Nisichawayasihk Cree Nation
Manitoba*



GAS-FIRED POWER FACILITIES

*Oakville and King Township
Ontario*



WIND FARM

*St-Vaentin
Québec*



SHALE GAS EXPLORATION

*Kent County and
Elsipogtog First Nation
New Brunswick*

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