

Version 3

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Proposed Bill 132 Draft Motions
Proposed Draft Government Motions

Proposed Draft Bill 132 Motions

Motion 1

Schedule 1 to the Bill, subsection 1 (1)

The following definition is added:

“readjustment amount” means, in respect of a reference period, the amount payable by specified consumers in respect of that reference period as a result of a determination of the Board under Part II to reduce electricity rates [so that the sum of the amount charged to specified consumers and the finance amount is less than] the fair allocation amount in respect of the reference period; (“French”)

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Motion 2

Schedule 1 to the Bill, section 7

Section 7 would be struck out and the following substituted:

Regulated rate consumers, first adjustments

7. (1) Despite clause 79.16 (1) (b) of the *Ontario Energy Board Act, 1998*, the electricity rates payable by regulated rate consumers for the period beginning on July 1, 2017 and ending on April 30, 2018 are the rates determined by the Board under this section and in accordance with the regulations.

Determination by Board

(2) The rates mentioned in subsection (1) shall be the rates that would result in a hypothetical regulated rate consumer who meets the prescribed criteria being invoiced a total amount, consisting of such types of amounts as may be prescribed, that is 25 per cent less than the total amount, consisting of such types of amounts as may be prescribed, that the consumer would have been invoiced under the comparison rates described in subsection (3).

Comparison rates

(3) The comparison rates are the rates that would have been effective May 1, 2017 if they had been determined by the Board for the consumer mentioned in subsection (2) using the method prescribed by the regulations made under clause 79.16 (1) (b) of the *Ontario Energy Board Act, 1998*, without taking into account any forecasted impact of any other provisions of this Act.

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Motion 3

Schedule 1 to the Bill, section 8

Section 8 would be struck out and the following substituted:

Other specified consumers, first adjustments

8. For the period beginning on July 1, 2017 and ending on April 30, 2018, the adjustments made under section 25.33 of the *Electricity Act, 1998* shall, with respect to specified consumers who are not regulated rate consumers, be further adjusted by electricity vendors in accordance with the determinations made by the Board in accordance with the regulations.

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Motion 4

Schedule 1 to the Bill, section 11

Section 11 would be struck out and the following substituted:

Subsequent adjustments

11. (1) Despite clause 79.16 (1) (b) of the *Ontario Energy Board Act, 1998* and subject to subsection (2), the Lieutenant Governor in Council may prescribe methodologies to be applied by the Board after April 30, 2018 for the purpose of determining,

- (a) electricity rates for regulated rate consumers; or
- (b) further adjustments to be applied by electricity vendors, in accordance with the regulations and in accordance with the Board's determinations, to the adjustments made under section 25.33 of the *Electricity Act, 1998* in respect of specified consumers who are not regulated rate consumers.

Regulations

(2) The Lieutenant Governor in Council shall have regard to the following in making the regulations:

- 1. The purposes of this Act.
- 2. The clean energy costs borne by specified consumers over time.
- 3. Such other matters as may be prescribed.

Same

(3) The regulations may prescribe,

- (a) different methodologies for different prescribed classes of specified consumers and in respect of different periods of time; and
- (b) different adjustments to be applied in respect of prescribed classes of specified consumers who are not regulated rate consumers and in respect of different periods of time.

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Motion 5

Schedule 1 to the Bill, subsections 12 (2) and (3)

Subsection 12 (2) would be struck out and the following substituted:

Same

(2) If an invoice for the electricity is issued to the person by the specified consumer or a unit sub-meter provider providing unit sub-metering for the specified consumer, the amounts or rates payable for the electricity by the person who is liable to pay the invoice shall be determined in accordance with the regulations.

Same

(3) The regulations may prescribe different amounts or rates for different prescribed classes of specified consumers.

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Motion 6

Schedule 1 to the Bill, subsection 13 (2)

Subsection 13 (2) would be struck out and the following substituted:

Same

(2) For greater certainty, subsection (1) applies regardless of whether any estimate, projection or other input used in calculating the clean energy adjustment was erroneous or out of date at the time of the calculation and regardless of whether any of those estimates, projections or other inputs is subsequently amended, updated or corrected.

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Motion 7

Schedule 1 to the Bill, section 18

Section 18 would be struck out and the following substituted:

Appointment

18. Ontario Power Generation Inc. is appointed as the Financial Services Manager for the purposes of this Act, unless it is unable or unwilling to do so, in which case the Minister may appoint a different Financial Services Manager in accordance with the regulations.

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Motion 8

Schedule 1 to the Bill, section 20

Section 20 would be struck out and the following substituted:

Minister to calculate fair allocation amount

20. (1) Before the first funding obligation is incurred, the Minister shall calculate a fair allocation amount in respect of each reference period as follows:

1. Determine, in accordance with the following steps and the regulations and by applying such method as the Minister considers appropriate, the estimated clean energy costs to be allocated to specified consumers in respect of the reference period:
 - i. Determine the clean energy costs incurred or expected to be incurred in respect of the reference period.
 - ii. Determine the clean energy benefits and allocate that value across the prescribed period and each reference period.
 - iii. Allocate clean energy costs in respect of reference periods in proportion to such relative attributions of clean energy benefits determined in subparagraph ii.
2. Subject to subsection (2), determine, in accordance with the regulations and by applying such method as the Minister considers appropriate, the estimated finance amount in respect of the reference period.
3. Determine, in accordance with the regulations and by applying such method as the Minister considers appropriate, the estimated clean energy costs that would have been payable, in the absence of this Act, by specified consumers in respect of the reference period.
4. Determine the amount, if any, by which the sum of the determinations under paragraphs 1 and 2 exceeds the determination under paragraph 3.
5. Calculate the sum of the amount determined under paragraph 4 and such other amounts as may be prescribed in respect of the reference period.

Part II adjustments

(2) If the Board has made a determination under section 9 or 11 in respect of the reference period or in respect of a prior reference period and, as a result of the determination, the prescribed circumstances arise, the Minister shall take the prescribed steps to make the prescribed adjustments to the determination made under paragraph 2 of subsection (1).

Minister's considerations

(3) In calculating a fair allocation amount, the Minister shall have regard to the purposes of this Act and such other matters as may be prescribed.

Minister to report to Financial Services Manager

(4) The Minister shall provide a report setting out the fair allocation amount in respect of each reference period to the Financial Services Manager.

Recalculation

(5) The calculation of a fair allocation amount under this Part may be changed by such person as may be prescribed, subject to the following requirements:

1. The prescribed person shall comply with such requirements as may be prescribed.
2. Subsections (1), (2) and (3) apply to the new calculation, with necessary modifications, as if that person were the Minister.

Same

(5) No change under subsection (5) shall affect any clean energy adjustment that arises as a result of a funding obligation that has been incurred before the change.

Information

(6) The Minister, the IESO, the Financial Services Manager, the Board and electricity vendors shall provide such information as may be prescribed in accordance with the regulations for the purposes of facilitating a change under subsection (5).

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Motion 9

Schedule 1 to the Bill, subsection 21 (1)

Subsection 21 (1) would be amended by striking out “for the purposes of acquiring and financing an investment asset” and substituting “for the purposes of a financing entity acquiring and financing an investment interest”.

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Motion 10

Schedule 1 to the Bill, paragraph 1 of subsection 21 (3)

Paragraph 1 of subsection 21 (3) would be amended by striking out “to reflect determinations of the Board under Part II in respect of the reference period” at the end and substituting “by the amount of any readjustment amount in respect of the reference period”.

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Motion 11

Schedule 1 to the Bill, subsection 21 (4)

Subsection 21 (4) would be amended by striking out clauses (a) and (b) and substituting the following:

- (a) the amounts are payable in respect of a reference period in respect of which the Board has not made any determinations under Part II that resulted in a readjustment amount; or
- (b) if the Board has made a determination under Part II in respect of the reference period that resulted in a readjustment amount, the amounts payable in respect of the clean energy adjustment in respect of the reference period do not exceed the fair allocation amount in respect of the reference period after subtracting the readjustment amount.

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Motion 12

Schedule 1 to the Bill, subsection 21 (6)

Subsection 21 (6) would be amended by adding “but no such amendment shall affect any clean energy adjustment that has already been determined under section 15 or any funding obligations that have already been incurred before the amendment” at the end.

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Motion 13

Schedule 1 to the Bill, subsection 22 (3)

Subsection 22 (3) would be amended by striking out “The Financial Services Manager shall not” at the beginning and substituting “Neither the Financial Services Manager nor a financing entity shall”.

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Motion 14

Schedule 1 to the Bill, section 40.1

The following section would be added:

Compliance and restraining orders

Application to court

40.1 (1) On the application of an investment interest owner, the Superior Court of Justice may make an order described in subsection (2) if it is satisfied that an electricity vendor, the IESO or the Financial Services Manager has failed to comply with or contravened this Act or the regulations or that one of those entities will fail to comply with or will contravene this Act or the regulations.

Order

(2) The Superior Court of Justice may, by order,

- (a) direct the electricity vendor, the IESO or the Financial Services Manager to comply with this Act or the regulations;
- (b) restrain the electricity vendor, the IESO or the Financial Services Manager from contravening this Act or the regulations; or
- (c) require compensation to be provided by the electricity vendor, the IESO or the Financial Services Manager to the investment interest owner.

Same

(3) An application under subsection (1) may be made by an investment asset owner in addition to exercising any other right of the investment interest owner.

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Motion 15

Schedule 1 to the Bill, paragraph 7 of subsection 41 (1)

Paragraph 7 of subsection 41 (1) would be amended by striking out “a breach under section 29” and substituting “the failure of any person or entity to give effect to the rights and interests provided for under section 29”.