Ontario

LEGISLATION AND REGULATIONS COMMITTEE
BRIEFING NOTE

Energy
Electricity Rate Mitigation

CAB	TB/MBC	LRC	Effective Date
Sept. 12, 2016	Sept. 12, 2016	Nov. 14, 2016	January 1, 2017

Summary of Proposal

The following proposal contains a variance from Cabinet direction, which is detailed in the Cabinet Office Analysis section of this note and attached variance memo.

Context for Decision:

On Sept. 12, 2016 the Ministry of Energy received Cabinet Approval to introduce legislation that would enable a broader Electricity Rate Mitigation Strategy for electricity consumers across the province. On September 15, the Minister of Energy introduced Bill 13, the *Ontario Rebate for Electricity for Electricity Consumers Act, 2016,* (ORECA) that puts in place an 8% rebate for residential, small business customers and farms. Bill 13 passed on October 19, 2016 and received Royal Assent on November 2, 2016 and is scheduled to come into force on January 1, 2017.

In addition to the 8% rebate enabled through the ORECA, amendments to existing regulations would enable the other elements of the broader mitigation strategy.

Summary of Proposal:

To implement the rate relief provided for under Bill 13, as well as the other elements of the broader rate mitigation strategy, a number of additional regulations and regulatory amendments are needed.

1. Creating a new General regulation under the *Ontario Rebate for Electricity Consumers Act, 2016*.

   This proposed new regulation will provide the necessary mechanics to support the implementation of the 8% rebate. Provisions in this regulation include direction to Local Distribution Companies (LDCs) on:

   - Base invoice amounts for invoices (direction on what amounts should be included in the calculation of the 8% rebate).
   - Flow through of financial assistance (direction on passing through the rebate to eligible consumers).

- Records keeping, reimbursement requirements for vendors, financial assistance re: fees and charges imposed by unit sub-meter providers.
- Eligibility to receive the rebate for remote communities that are serviced by Independent Power Authorities.

2. Amending O. Reg. 442/01(Rural or Remote Electricity Rate Protection) made under the *Ontario Energy Board Act, 1998*.
   - This proposed amendment will update the Rural or Remote Rate Protection (RRRP) program, to provide increased rate relief to eligible rural customers (low-density customers of Hydro One). The increased subsidy would result in an approximate increased monthly subsidy from $31.50 to $60.50.
   - Cabinet previously approved an increase of $110 million. Hydro One has provided updated numbers of eligible customers and ENERGY is seeking approval for a regulation that would result in an additional $6.4 million from the rate base in order to fulfill the intention of the proposal.
3. Amending O. Reg. 429/04 (Adjustments under Section 25.33 of the Act) made under the *Electricity Act, 1998.*
   - This regulation governs how the Global Adjustment is charged to different classes of electricity consumers. This includes setting eligibility requirements for being a participant in the Industrial Conservation Initiative).
   - This proposed amendment would provide eligible electricity consumers with an average monthly peak demand between 1 megawatt (MW) and 5 MW with the opportunity to participate in the Industrial Conservation Initiative. Current sector restrictions would be removed and smaller institutional and commercial businesses would be eligible. Newly eligible consumers would have to opt-in, should they wish to participate.
4. Amending O. Reg 495/10 (General) made under the *Ontario Clean Energy Benefit Act, 2010.*
   - For the period of 2011-2015 the Ontario Clean Energy Benefit provided certain consumers with a credit of ten percent of the total cost of electricity. In September of 2012, a 3,000 kilowatt hour per month cap was implemented. The credit was put in place as a temporary measure, and there is currently no end date by which to claim retroactive payments.
   - The proposed amendment would prescribe an end date for electricity consumers to submit Ontario Clean Energy Benefit claims to service providers and a second end date for licensed distributors and sub-meter providers to submit invoices.
5. and 6. Amending O. Reg. 275/04 (Information on Invoices to Certain Classes of Consumer of Electricity) made under the *Ontario Energy Board Act, 1998* and O. Reg 161/99 (Definitions and Exemptions) made under the *Ontario Energy Board Act, 1998*.

- These proposed amendments are consequential to the implementation of the *Ontario Rebate for Electricity Consumers Act, 2016,* including adding the ORECA to the list of Acts and Regulations that can alter the presentation of the invoice from the standard messaging.

Terms you need to know

- **Local Distribution Companies (LDCs)** – Local electricity utilities, responsible for distributing power from transmission lines to people's homes (e.g., Hydro Ottawa, Toronto Hydro, etc.).
- **Regulated Price Plan (RPP)** - Since April 2005, the Ontario Energy Board (OEB) has administered an electricity price plan that provides stable and predictable electricity pricing, encourages conservation and ensures the price consumers pay for electricity better reflects the price paid to generators. This pricing plan is known as the Regulated Price Plan (RPP). About 5 million residential consumers, small businesses and farms are eligible for the RPP.
- **Class B Electricity Consumer** – commercial, institutional and small industrial electricity consumers, with load size between 0.05 – 5 MW who are not eligible for or choose not to participate in the Industrial Conservation Initiative. Class B consumers pay GA as a flat rate (i.e., $/kilowatt-hour) applied to electricity consumption.
- **Class A Electricity Consumer** – large commercial and large industrial electricity consumers with average peak load size greater than 5 MW, and since July 1, 2015, electricity consumers operating in select electricity-intensive sectors with average monthly peak demand greater than 3 MW and less than 5 MW, subject to their industrial sector eligibility. Class A consumers pay GA based on their electricity consumption during the five highest peak demand hours during the year.

Why does Ontario need these changes? Why now?

Electricity costs have been increasing as investments have been made to decarbonize and modernize the province’s electricity infrastructure. Since 2010, electricity prices have risen considerably, particularly for households and small businesses. Also, the amount of support available to Hydro One R2 customers through the RRRP has been fixed by regulation since 2001.

The Ministry of Energy, working with the Ministry of Finance, was asked to develop a proposal to provide rate relief to Ontario electricity consumers. On September 12 in the Speech from the Throne, the government committed to introducing measures that would provide consumers with rate relief on their electricity bills.

What is the expected cost to government?

The 8% rebate is expected to cost about $1.2 billion per year (approximately $4.5 billion from 2017-2020).

The cost of the RRRP program expansions will be shared across the electricity rate base, and is estimated to cost approximately $0.60/month for the average residential customer. The total additional cost of the RRRP is $116.4 million (pending Cabinet approval of the additional support for the RRRP).

The ICI, for the electricity system as a whole, does not result in any additional costs. The expansion of ICI will shift some electricity system costs from new Class A electricity consumers to remaining Class B consumers, resulting in an approximate 0.5% increase in electricity bills for these remaining Class B consumers.

Cabinet Office Analysis

Following the Speech from the Throne in September and the passage of the ORECA on October 19, Ontarians are expecting to see electricity rate relief as of January 1, 2017. This proposal provides the mechanisms to implement this commitment. For the rate relief to be implementation by January 1, there is a need to move forward with the regulation changes as soon as possible (e.g. so that bill issuers can prepare Customer Information Systems for setting new RRRP rates and calculate associated benefits, so that LDCs have time to prepare for the expected increase in the ICI program, all in advance of the January implementation). The following regulations and regulatory amendments are being proposed:

1. <u>General Regulation</u>

The proposed General Regulation under the *Ontario Rebate for Electricity Consumers Act, 2016* will put in place a framework very similar to the framework developed to deliver the Ontario Clean Energy Benefit. The regulation provides instruction to LDCs on how the rebate is to be calculated (e.g., rebate is calculated before taxes; clarifies how the rebate is applied to those receiving Ontario Electricity Support Program assistance).

The proposed General Regulation also provides an outline on how the payments flow through to customers. Through the proposed General Regulation, a parallel process will be created to ensure that Independent Power Authorities and have the opportunity to participate and have their customers receive the provincial rebate. There were six communities that did not enroll to receive the OCEB. These communities would be eligible for the 8% rebate, but would need to go through the enrollment process.

2. <u>Rural or Remote Electricity Rate Protection (RRRP) Expansion – Regulation</u>

The RRRP framework was put in place to ensure that all Ontario residents pay similar prices for electricity distribution, regardless of their geographic location. The Ministry of Energy is seeking to increase the amount of rate protection available for eligible rural or remote electricity customers. Under the RRRP regulation the amount of rate protection available to Hydro One's R2 customers (residential customers who are classified as low density) is capped at a fixed amount of $127 million – which amounts to a monthly subsidy of $31.50. The entire RRRP program is paid for by all electricity customers across the province, and costs the average residential consumer approximately $1/month.

In September 2016, Cabinet approved an additional $110 million in RRRP program funding that was intended to provide an increased benefit of approximately $29/month for all eligible RRRP customers. The additional monthly cost of this proposal for an average residential consumer was estimated to be $0.60.

Variance from cabinet direction: The Ministry of Energy is proposing to increase rate protection for eligible customers by an additional $6.4M, based on a revised estimate of eligible customers provided by Hydro One. The additional $6.4 million being sought will not materially increase the monthly cost for an average residential customer using 750 kWh per month.

As part of the Price Mitigation initiatives, Cabinet directed that the funding for R2 customers be adjusted annually to reflect any increases on their electricity bills. The proposed amendments to the regulation will add an escalating factor to the new base rate protection amount. Starting in 2018, and every year after, the total amount of rate protection available to Hydro One's R2 customers would be increased by a percentage, as calculated by the Ontario Energy Board. This percentage would be based on the simple average, as calculated by the OEB, of the change in base distribution rates of all distributors from the previous year.

3. Industrial Conservation Initiative Expansion (ICI)

The ICI is intended to incent a greater number of Ontario businesses to lower their electricity costs by reducing electricity demand during peak demand periods. Reducing peak demand increases the reliability of the power grid, reduces greenhouse gas (GHG) emissions and helps to defer the need to procure more resources. In 2010, when Ontario introduced ICI, the program was available to customers with a peak demand greater than 5 MW and in 2013 was subsequently expanded to allow eligible customers in certain energy-intensive industries with a peak demand for electricity greater than 3 MW and less than or equal to 5 MW to opt in to the program.

The Ministry of Energy is proposing to expand eligibility under ICI to include all electricity consumers and market participants with an average monthly peak demand greater than one MW and to remove sector restrictions so that smaller institutional and commercial businesses would be eligible. This would expand the ICI to include more than 1000 newly eligible customers. Non-ICI participants will likely see an increase on their bills but the extent of the impact is dependent on the uptake of the expanded ICI program.

4. Amending O. Reg. 495/10 (General) made under the Ontario Clean Energy Benefit Act, 2010

In addition to enacting the provisions for the 8% rebate, Bill 13 also included amendments to the Ontario Clean Energy Benefit Act, 2010 that provided the necessary authority to prescribe end dates for retroactive claims, eliminating further crown liability for reimbursements after the prescribed date. Proposed amendments will establish February 1, 2017 as the cut-off date for customers with an eligible account to claim unpaid OCEB amounts.

Although this proposal is not expected to affect the majority of OCEB customers (as audits conducted by the Ministry of Finance identified minimal errors in the application of the program), the potential size of the liability related to retroactive payments is highly uncertain due to data limitations. ENERGY's rough estimate for this liability is $10 million (as a comparison - since January 2011, OCEB expenditures have been approximately $5.3B; expenditures are reflected in Volume 1 of Public Accounts each fiscal year).

5. Amending O. Reg. 161/99 (Definitions and Exemptions) made under the Ontario Energy Board Act, 1998.

This proposed amendment is required to help ensure that the 8% rebate is passed on to individual units in multi-unit complexes. The amendments provide strong incentive for "exempt distributors" (such as multi-unit complexes) to comply with the requirement to pass on the benefits. The exemption status would only continue if they satisfy the requirement to pass on the benefit.

6. Amending O. Reg. 275/04 (Information on Invoices to Certain Classes of Consumer of Electricity) made under the Ontario Energy Board Act, 1998

This amendment allows for the rebate legislation and any regulations under it to alter the presentation of invoices. This proposal is necessary for the invoice to present the 8% rebate as a separate line item.

There is also one related Minister's Regulation on invoicing requirements (to provide clear direction to energy vendors) that is moving forward in parallel with this package.

Linkages:

Ontario's Climate Change Action Plan (CCAP)

The CCAP, released in summer 2016, reiterated the 2016 Budget commitment and stated that Ontario intends to invest in initiatives that both reduce greenhouse gas (GHG) emissions and ensure that the net impact of cap and trade would not result in an overall increase in electricity costs for commercial and industrial consumers, and that there would be a modest benefit of up to $2 per month, on average, to residential consumers.

At the time, it was estimated that redirecting cap and trade auction proceeds to lower the cost of electricity would reduce up to 3,000,000 tonnes of greenhouse gas (GHG) emissions by 2020.

Electricity Rate Mitigation Initiatives:

The Ontario Clean Energy Benefit (OCEB) was a five-year legislated program put in place as a broad-based, transitional measure to a cleaner electricity system. The Province also put in place the energy portion of the Ontario Energy and Property Tax Credit, as well as the Northern Ontario Energy Credit at that time to provide on-going targeted relief, in addition to the general sales tax credit. OCEB expired on December 31, 2015.

As part of the transition to the end of the OCEB, the government also recently ended the electricity Debt Retirement Charge (DRC) on residential users earlier than planned, as of January 1, 2016, and put in place the low-income targeted Ontario Electricity Support Program (OESP).

Delivery:

For the 8% rebate, LDCs have indicated they will likely be operational by January 1 2017. However, the legislation gives LDCs until July 1 2017 to begin delivering the 8% rebate and associated messaging. If LDCs are not operational on January 1 2017, customers would receive any back-owed rebate in a lump sum once the LDC is able to deliver the rebate.

A dedicated information portal will be created by ENERGY for oversight and tracking of the rebate (similar to what was created under the Clean Energy Benefit program).

Pending approval of the increased amount of rate protection through the RRRP, the OEB will be required to set the RRRP rate. This rate is typically set by the OEB in December in time for LDCs to begin charging the approved rate in January. Hydro One would implement the updated RRRP subsidy for eligible customers (low-density R2 rate class) for consumption on or after January 1, 2017.

The ICI expansion would be implemented by the IESO and LDCs by such that newly eligible ICI participants will be able to benefit from reduced electricity rates by July 1, 2017

Stakeholder Consultations:

Regulatory Registry

- For the period September 28-November 12, the Ministry of Energy posted a proposal for comment on the Regulatory Registry to provide stakeholders with the opportunity to comment on the electricity mitigation initiative.

- The posting included the proposed changes to the RRRP, ICI and new regulations needed to support the 8% rebate.   No changes are proposed as a result of the Regulatory Registry posting.
- 7 responses were received. Key feedback received includes:
    - Electricity Distributors Association provided feedback on all portions of the proposal, ENERGY's analysis was that suggestions were either currently addressed by the proposal or were outside of the scope of the proposal.
    - The Ontario Federation of Agriculture supported the expansion of the ICI, and noted that livestock businesses are not generally able to take advantage of ICI, they are unable to lower electricity demand during peak periods.
    - Hydro Ottawa noted the connection to electric vehicles, ENERGY's response is that future amendments may be required to align the rebate with overnight electric vehicle charging program, once the program is developed.
    - The Ontario Greenhouse Alliance requested that the 'mandatory base year' be removed from the ICI to allow for immediate access. ENERGY will take this recommendation into account in the future, but notes that at this point it would be too administratively complex or include a risk of over or under collection of Global Adjustment.

LDC Working Group

- In October 2016 The Ministry hosted an LDC Working Group with nearly 40 LDCs representatives where feedback was provided to the ministry to consider in the development of the regulatory package. This included feedback on the billing system limitations that was incorporated into proposed bill presentment requirements. Amended requirements included reducing the number of characters in the mandated on-bill messaging to accommodate the on-bill space limitations for some LDCs.

Standing Committee of Justice – Public Hearings for Bill 13

- On October 3, a number of organizations as well as individual citizens made presentations to the standing committee on Justice regarding Bill 13, including requesting additional rate relief, support for the rate relief package, and support for provisions that would limit disconnection of customers.

Risks

- The 8% rebate would be structured and delivered in a similar fashion to the former OCEB. There is a risk that the government could be criticized for replacing the OCEB with a smaller rate relief package, just one year after the OCEB ended.
    - The new rebate would have a wider base, would be permanent, and would be uncapped, compared to the OCEB, which was capped at 3,000 kWh

per month (and per residential unit in a bulk-metered, multi-residential building), and limited to 5 years.

- The rebate was earlier estimated as part of the fiscal plan to cost $1 billion on an annualized fiscal basis, and this estimate has since increased to $1.2 billion. The rationale for the increase is that ENERGY was able to refine its analysis. ENERGY has also indicated that the rebate is expected to cost approximately $4.5 billion from 2017-2020. It was indicated that revised estimates would be part of Energy's PRRT submission.

- For the rate-based portions of the proposal (i.e., the expansion of ICI and RRRP) the result is an increase in costs for ratepayers not included in those programs (i.e., primarily residential, small business and farms). Shifting costs to some electricity consumers to lower rates for others carries the risk that the charge would be characterized as an unconstitutional tax. To establish that the charge is legitimate, it must be established that the purpose and effect of the charge is to facilitate the maintenance of a financially viable electricity system by way of load management or some other feature under which those who are subsidized provide an overall system benefit enjoyed by those who subsidize them. The Electricity Distributor Association raised related concerns.
    - ICI is intended to incentivize a greater number of Ontario businesses to lower their electricity costs by shifting energy demand away from peak demand periods. Reducing peak demand can increase the reliability of the power grid, reduce greenhouse gas emissions and help defer the need for new peaking generation over the longer-term. Note: There are now about 300 participating consumers who collectively reduced Ontario's peak demand by an estimated 1,000 MW in 2015.

- Under the proposal, some eligible consumers (e.g., multi-unit residential buildings) may receive multiple benefits (8% rebate and proceeds recycling), while others would be eligible for only one type of benefit.

APPENDIX A: Multi-Year Action Plan (Electricity Rate Mitigation)

Below is an extract taken from the MYAP which demonstrates the overall strategic plan for the initiative that this policy submission supports. This excerpt represents the approved plan to date, and may not reflect the specific policy and delivery timelines identified in the Cabinet Minute above.

Milestone Legend: Ongoing Activity · Policy Approval · Delivery Milestone

Key Activity Status Legend: Heightened Management Attention Required · Management Attention Required · Monitoring · Satisfactory

MYAP Slice 2016-11-06

KEY ACTIVITIES	YEAR 1 (2014-2015)	YEAR 2 (2015-2016)	YEAR 3 (2016-2017)	YEAR 4 (2017-2018)	YEAR 5 (2018-2019)	GOVERNANCE AND RISKS
	A M J J A S O N D J F M	A M J J A S O N D J F M	A M J J A S O N D J F M	A M J J A S O N D J F M	A M J J A S O N D J F M	
15.21 | Electricity Rate Mitigation Pillar: Managing Ontario's Energy Resources		CCAP Update	Price Mitig Leg Introduced Electricity Price Mitigation Price Mitig Implemented			Lead: ENERGY Risk Categories: Last updated: 24-10-16 24-10-16