Ontario

LEGISLATION AND REGULATIONS COMMITTEE: MINISTRY APPROVAL FORM

LRC Tracking #: REG-11654
EVista Tracking #: SUB-REG-2017-01830

Ministry of Energy

Ontario Fair Hydro Plan Act, 2017
Regulations

Profile at a Glance

Priority: Key
Public Interest: Low
Key Stakeholder Interest: Very high
New Costs/Burdens: No for Stakeholders; No for Government
New Savings/Opportunities: No for Stakeholders; No for Government

---

Proposed Items for Review

1. Amending Ontario Regulation (O.Reg.) 206/17 made under the *Ontario Fair Hydro Plan Act, 2017 (OFHPA),* which is Schedule 1 of the *Fair Hydro Act, 2017*;

Approvals required prior to LRC

	Committee and date	Cabinet Date
Policy	N/A	N/A
TB/MBC	N/A	N/A

Original Signed By ____________________ October 27, 2017
Deputy Minister Date

____________________ ____________________
Minister Date

CONFIDENTIAL CABINET DOCUMENT
LRC Ministry Approval Form – version 10.03

s. 1 Proposal and Context

Supporting Implementation of Ontario's Fair Hydro Plan under the OFHPA

- On May 11, 2017, the government introduced Bill 132, the *Fair Hydro Act, 2017* (FHA) which is comprised of two Schedules:
  - Schedule 1 is the *Ontario Fair Hydro Plan Act, 2017* (*OFHPA*) and related amendments to the *Electricity Act, 1998* and the *Ontario Energy Board Act, 1998* (OEBA); and
  - Schedule 2 includes the electricity social program-related amendments to the *OEBA, 1998*.
- On May 31, 2017 the FHA passed third reading and received Royal Assent on June 1, 2017.
- Under the *OFHPA*, a portion of the Global Adjustment (GA) is being refinanced in order to fairly allocate costs across present and future generations of electricity consumers with respect to investments made to decarbonize (i.e., phase-out coal) and modernize Ontario's electricity system (i.e., build and maintain a reliable electricity system).
- Under the O*FHPA,* which enables GA Refinancing, electricity bills of a typical residential consumer have been reduced by 25 per cent effective July 1, 2017, compared to what they would have been without the initiatives included in Ontario's Fair Hydro Plan. In addition, Schedule 1 provides the authority under which further increases to electricity bills for a typical consumer are to be held to the rate of inflation. Up to 500,000 small businesses and farms are also benefitting from GA refinancing.
- Proposed amendments to O. Reg. 206/17 (General) made under the OFHPA are the next step in implementing GA refinancing. The amendments would, if approved, enable Ontario Power Generation (OPG), as Financial Services Manager (FSM) under the OFHPA, to establish and charge fees for the services it provides in connection with the financings contemplated under the OFHPA.
- Additional proposed amendments to O. Reg. 206/17 included in this package are needed to ensure the implementation of GA refinancing satisfies accounting requirements regarding the near-term recovery of "carrying costs" (i.e., fees and interest amounts) under the OFHPA.

A. Financial Service Manager (FSM) Fees Review

1. Amending O. Reg. 206/17 made under the OFHPA:

- The Ministry of Energy is seeking approval to amend O.Reg. 206/17 made under the OFHPA to enable the implementation of GA Refinancing.
- OPG, as Financial Services Manager (FSM) under the OFHPA, plays a key role in obtaining the Financing to support GA Refinancing.
- The proposed new amendments would, if approved, enable OPG to establish and charge fees in its role as FSM. It would also provide the methodology for the calculation of those fees, and would define the role of the Ontario Energy Board (OEB) in reviewing and approving those fees.

B. Recovery of "Carrying Costs"

1. Amending O. Reg. 206/17 made under the OFHPA:

- The Ministry of Energy is proposing to amend O. Reg. 206/17 in order to enable the further implementation of Ontario's Fair Hydro Plan under the OFHPA.
- The proposed amendments would, if approved, enable the recovery of amounts related to interest costs and Financial Services Manager fees ("carrying costs") in a manner consistent with accounting requirements of OPG and the Independent Electricity System Operator (IESO).

s. 2 Approach and Intended Outcomes

A. FSM Fees Review

1. Amending O. Reg. 206/17 made under the OFHPA:

- The Ministry of Energy is seeking approval to amend O. Reg. 206/17 under the Ontario Fair Hydro Plan Act (*OFHPA*) to enable the implementation of GA Refinancing.

- OPG, as Financial Services Manager under the OFHPA, plays a key role in obtaining the Financing to support GA Refinancing.

- The proposed amendments would, if approved, enable OPG to establish and charge fees in its role as FSM. It would also provide the methodology for the calculation of those fees, and would define the role of the Ontario Energy Board (OEB) in reviewing and approving those fees.

- The proposed amendments, if approved, would enable to OPG to go to market in November 2017 as intended. Any timeline is dependent on the completion of a number of related items including the confirmation of fees methodology and review, and recovery of carrying costs (i.e., as set out in the proposed amendments to Ontario Regulation 206/17).

B. Recovery of “Carrying Costs”

1. Amending O. Reg. 206/17 made under the OFHPA:

- The Ministry of Energy is proposing additional amendments to O. Reg. 206/17 in order to enable the implementation of Ontario’s Fair Hydro Plan under the OFHPA.

- For the purposes of further implementing the OFHPA, ENERGY has determined an approach utilizing the General Regulation made under the OFHPA, which would establish the authority for the Independent Electricity System Operator (IESO) to pay the amounts related to interest costs and Financial Services Manager fees (“carrying costs”) and to ensure that these amounts are not to be recovered from specified consumers, defined under the OFHPA, for the period from July 1, 2017 to April 30, 2021 (i.e., “the inflationary cap period”).

- The proposed amendments would enable IESO to record amounts related to carrying costs in the variance account established under the OFHPA, allowing IESO to recover such amounts through their inclusion as part of the regulatory asset to be transferred to the financing entity as set out in the OFHPA.

- The proposed amendments also establish the authority for IESO to grant security to the financing entity, as defined in the OFHPA, for the purpose of meeting its obligation to pay and remit amounts related to FSM carrying costs.

- The amounts would be recovered through the Clean Energy Adjustments (CEAs) on and after May 1, 2021. Note: This was necessary since without a mechanism for recovery of such carrying costs during the so-called moratorium period, GA Refinancing may not be able to proceed as planned under the OFHPA or might significantly increase the costs associated with such refinancing.

- The overall net impact to specified consumers within the inflationary cap period is expected to be zero.

- The proposed amendments, if approved, would enable to OPG to go to market in November 2017 as intended. Any timeline is dependent on the completion of a number of related items including the confirmation of the recovery of fees and carrying costs (i.e., as set out in the proposed amendments to Ontario Regulation 206/17).

s. 3 Direction and Urgency

- The direction for the creation and implementation of GA Refinancing programs is found in the March 1, 2017 Cabinet Minute and subsequent public commitments.
- Following the Fair Hydro Act, 2017, receiving Royal Assent on June 1, 2017, the government, Ontario Power Generation, the Independent Electricity System Operator (IESO), the Ontario Energy Board (OEB) and legal, financial and energy sector third-party experts have been working to implement GA Refinancing.
- For GA Refinancing to proceed as planned under the legislation, OPG needs to go to market so that the GA deferral can be funded (i.e., so that the regulatory asset can be transferred to the OPG financing entity as set out in legislation). Until such time as this takes place, IESO must manage the GA deferral. It is therefore important that OPG proceed to market in timely fashion.
- The Ministry of Energy understands OPG intends to go to market in November 2017. OPG is currently in preliminary discussion with rating agencies.
- Any timeline is dependent on the completion of a number of related items including the confirmation of fees methodology, and review and recovery of fees and carrying costs (i.e., as set out in the proposed amendments to O. Reg. 206/17).
- Since OEB adjusted rates to reflect Ontario's Fair Hydro Plan (OFHP) reductions partially on May 1, 2017 and fully on July 1, 2017, IESO has been managing a reduction in the GA received from electricity consumers.

s. 4 Impact Assessment and Costs

Government Impact

- The proposed amendments to O. Reg. 206/17 do not involve a direct fiscal impact on the finances of the province.

Stakeholder Impact

- The proposed amendments to O. Reg. 206/17 would impact IESO, in relation to the amounts related to the financing of the carrying costs and OPG FSM fees that they would not be recovering from consumers and which would form part of the variance account for future collection from specified consumers.

Agency Impact

- OEB would be impacted in terms of the requirements for review of OPG FSM fees set out in the amendments to O. Reg. 206/17, and in terms of the determination of rates that will have to be applied to specified consumers consistent with the OFHPA and related regulations.
- OPG as FSM would be able to proceed with the implementation of GA Refinancing as planned.

s. 5 **Implementation**

- The proposed amending regulation would, if approved, provide further detail on the roles and responsibilities for organizations (i.e., OPG, OEB and IESO) who are responsible for implementing GA Refinancing under OFHPA.
- This includes detail on the roles and responsibilities of the FSM (i.e., Ontario Power Generation (OPG)), the Independent Electricity System Operator (IESO) and the Ontario Energy Board (OEB) under the OFHPA.

s. 6 **Delivery and Results Tracking**

- Further work to enable GA Refinancing to be undertaken during the Fall of 2017:
  - OPG to produce Financing Plans that would set out funding obligations for each reference period consistent with the Fair Allocation Amount (FAA);
  - IESO to record deferral amounts in relation to the establishment of the regulatory asset;
  - OPG/financing entity to begin purchasing of investment asset; and
  - OPG to work with lenders and credit rating agencies in establishing the vehicles for selling of investment asset interests.

s.7 Stakeholder Consultations

- The development of the proposed amendments was preceded by extensive consultation with representatives from OEB, IESO and OPG, as well as their external advisors (i.e., lawyers and accountants).

- As appropriate, other Ministries consulted in respect of particular issues.

- A steering committee chaired by the Deputy Minister met and were briefed weekly on the status of the regulatory amendments (i.e., the "Rate Mitigation Implementation Group" consisting of senior executives of the Ministry of Energy, Cabinet Office, Ministry of Finance, Treasury Board Secretariat, OFA, OPCD, OPG, OEB and IESO).

s.8 Other Jurisdictions and Harmonization

- No other jurisdictions have comparable legislative and regulatory frameworks. The U.S. does have examples of securitizations involving single distribution companies, but none of the transactions would have approached the level of complexity involved with the present OFHPA initiative.

- GA Refinancing will not have an impact upon any other jurisdiction.

s. 9 Communications

Note appendices here, or ERASE, e.g.
See Appendix X, Communications Plan

- The regulatory amendments are not expected to raise communications issues.
- Ministry has an extensive broader OFHP communications strategy in place.
- Reactive materials will include updated Q&As, key messages and issues management plan.
- Will continue to monitor and track:
    - media reactions and editorials
    - incoming correspondence
    - response by opposition MPPs

s. 10 Contacts and Appendices

Contacts

	Name	Phone Number

Ministry Policy/Program	Tim Christie	5-6708
Ministry Legal	James Rehob Dan Shear	5-6676 5-6685
Ministry Communications		
Assistant or Deputy Minister's Office	Martin Schlaepfer	6-7688
Cabinet Office Policy	Tim Hindmarch-Watson	5-4618

Appendices

Appendix A: Regulatory Comparison Chart
Appendix B: Proposed Regulations
Appendix C: Communications Snapshot

AMENDMENTS TO O. REG. 206/17: GENERAL

1. **Amend Ontario Regulation 206/17 (General) made under the *Ontario Fair Hydro Plan Act, 2017*. The amendment will come into force on the day it is filed.**

Current Regulation	Proposed Amendment	Rationale for Change
1 (1) In this Regulation, “capital account” means an account established by or on behalf of a financing entity under the governing documents of a funding obligation for the purpose of accumulating funds to be used to make repayments in respect of the funding obligation; “derivative agreement” means any derivative agreement, including interest rate swaps and cross-currency swaps and any associated collateral, entered into in connection with or to hedge the exposure of a financing entity under a funding obligation;	**1 (1)** “average monthly funding obligation” means, in respect of a month, the amount determined in accordance with subsection (3); “average annual funding obligation” means, in respect of a year, the sum of the average monthly funding obligations for the year;	Proposed amendments to O. Reg. 206/17 (General) made under the OFHPA are the next step in implementing GA refinancing. Proposed amendments to Subsection 1(1) are needed to define terms that support additional amendments included in this package, that would, if approved, enable Ontario Power Generation (OPG), as Financial Services Manager (FSM) under the OFHPA, to establish and charge fees for the services it provides in connection with the financing contemplated under the OFHPA, as well as to define the role of the Ontario Energy Board (OEB) in reviewing and approving those fees.

Current Regulation	Proposed Amendment	Rationale for Change
“derivative payment” means any payment required to be made in connection with a derivative agreement, including ordinary course payments, payments on termination and payments made in connection with margining or collateral arrangements; “finance reserve account” means an account established by or on behalf of a financing entity under the governing documents of a funding obligation for the purposes of pre-funding, collateralizing, over-collateralizing or establishing reserves for the payment of funding obligations and other finance amounts or for related contingencies; “financing entity expense” includes, (a) fees, including fees charged by the Financial Services Manager, charges, costs, indemnities, reimbursements, other amounts incurred or committed to, by or on behalf of a financing entity as a result of an activity authorized or permitted under the Act, and (b) any taxes on amounts mentioned in clause (a); “funding cost” means interest, commitment fees or other similar costs payable by or on behalf of a financing entity in respect of funding obligations, including a derivative payment;		
	“funding tranche” means an issuance of funding obligations of a particular class or type, all of which have the same terms, but	

Current Regulation	Proposed Amendment	Rationale for Change
	does not include an issuance of a funding obligation to the Financial Services Manager;	
“governing documents” means, in respect of a funding obligation, the documents governing the terms of the funding obligation or other matters relating to the funding obligation;		
	“market comparable fees” means, subject to (4) and (5), fees, expressed as an annual percentage rate, charged by full-service managers of funds, including but not limited to securitization vehicles, pension funds and other investment funds, hedge funds or other similar funds, for services that are similar to the services provided by the Financial Services Manager under the Act in terms of, (a) the type of services provided, (b) the scope of services provided, (c) the level of services provided, and (d) the dollar amount of assets under management;	
	“market comparable forecast interest rates” means, in relation to a funding tranche, interest rates for a debt obligation that, (a) has a principal amount that is comparable to the principal amount of the funding tranche,	

Current Regulation	Proposed Amendment	Rationale for Change
	(b) has a term that is comparable to the term of the funding tranche, (c) is based on a type of instrument that is comparable to the type of instrument of the funding tranche, (d) has payment rights that are similar to the payment rights of the funding tranche, and (e) is issued by an issuer with a risk profile comparable to the risk profile of the financing entity issuing the funding tranche;	
“maturity date” means, in respect of a funding obligation, the date set out in the governing documents of the funding obligation on which all outstanding principal, interest and other amounts outstanding are due and payable;		
	“net annual funding obligation” means, in respect of a year, the sum of the principal amounts of funding tranches issued in the year, other than any funding tranches that constitute a refinancing;	
	“prescribed matters” means matters in relation to the establishment, management and administration of financing entities and the investment asset, including but not limited to matters in relation to, (a) financing entities that are established or	

Current Regulation	Proposed Amendment	Rationale for Change
“recovery amount” means the aggregate of all amounts received by or on behalf of financing entities in respect of funding obligations; “redemption amount” means the amount payable by or on behalf of a financing entity to redeem, prepay or repurchase a funding obligation incurred by or on behalf of the financing entity, including any premium, make-whole or other amount payable to give effect to the prepayment, redemption or repurchase; “refinancing amount” means the principal amount of a funding obligation incurred by a financing entity in respect of a refinancing; “repayment” means the payment by or on behalf of a financing entity or the provision by or on behalf of a financing entity for the payment of all or a portion of the principal amount advanced to the financing entity under a funding obligation; “tax” means a tax, duty, fee, premium, excise, assessment, impost, levy or other charge payable to Her Majesty in right of	that are planned to be established, and (b) funding obligations that have been incurred or that are planned to be incurred by financing entities.	

Current Regulation	Proposed Amendment	Rationale for Change
Ontario, Her Majesty in right of Canada or the government of any other country, province, state, municipality or other political territory and imposed or authorized to be imposed by any law of Ontario, Canada, or any other country, province, state, municipality or other political territory and includes, (a) a tax, duty, fee, premium, excise, assessment, impost, levy or other charge, (i) levied on, measured by or described with respect to income, earnings, gross receipts, profits, capital, capital gains, sales or use, or (ii) referred to as branch tax, net worth tax, alternative tax, minimum tax, goods and services tax, harmonized sales tax, value-added tax, excise tax, ad valorem tax, franchise tax, transfer tax, withholding tax, property tax, surtax, payroll tax, employment tax or employer health tax, (b) government pension plan premiums or contributions, social security premiums, workers' compensation premiums and employment or unemployment insurance or compensation premiums and contributions, (c) an amount or charge under Part VI of		

Current Regulation	Proposed Amendment	Rationale for Change
the Electricity Act, 1998, (d) an instalment in respect of an amount mentioned in clauses (a) to (c), and (e) interest, penalties, fines, additions to tax or other amounts imposed on or in respect of an amount mentioned in clauses (a) to (c); "tax liability" means all tax paid or payable by or on behalf of a financing entity, incurred directly or indirectly by the financing entity or for which the financing entity is otherwise liable as a result of any activity, undertaking, transaction or event authorized or permitted under the Act; "tax refund" means all amounts received by or on behalf of a financing entity as a refund of tax and to which the financing entity is entitled as a result of any activity, undertaking, transaction or event authorized or permitted under the Act.		
N/A	**1 (3)** For the purposes of determining the average monthly funding obligation for a month, the following formula applies: (A + B) / 2 Where, A = the sum of the balances on the first day of the month of the principal amount of all outstanding funding obligations incurred by financing entities,	The proposed amendments to O. Reg. 206/17 are needed to define the calculation of amounts required to supplement additional amendments included in this package, that would, if approved, enable Ontario Power Generation (OPG), as Financial Services Manager (FSM) under the OFHPA, to establish and charge fees for the services it provides in connection with the financing contemplated under the OFHPA, as well as to define the role of the Ontario Energy Board (OEB) in reviewing and approving those fees.

Current Regulation	Proposed Amendment	Rationale for Change
	B = the sum of the balances on the last day of the month of the principal amount of all outstanding funding obligations incurred by financing entities. **1 (4)** Subject to subsection (5), the fees referred to in the definition of "market comparable fees" in subsection (1) are fees charged by full-service managers in Canada. **1 (5)** The fees referred to in the definition of "market comparable fees" in subsection (1) may be fees charged by full-service managers in a North American jurisdiction other than Canada for the purposes of the Board's review of a submission under this Regulation only if the Financial Services Manager has proposed such fees in its submission to the Board.	
5 (1) Subject to subsection (2), the finance amount in respect of a financing entity and a period of time shall be determined as follows: 1. After eliminating any duplication in the following amounts, calculate the sum of the following amounts: i. Amounts paid or payable during the period in respect of repayments. ii. Funding costs paid or payable during the period. iii. Redemption amounts paid or payable		Proposed amendments to subsection 5 (1) of O. Reg. 206/17 (General) are needed to ensure amounts paid or payable by or on behalf on the financing entity related to the Provincial Protection and Assurance Agreement would be included as part of the finance amount and recovered through Clean Energy Adjustments (CEAs), as set out in the *Ontario Fair Hydro Plan Act, 2017* (OFHPA). Proposed amendments to O. Reg. 206/17 is also needed to supplement additional amendments included in this package, which would enable 'carrying costs' to be excluded from determination of the finance amount for

Current Regulation	Proposed Amendment	Rationale for Change
during the period. iv. Derivative payments required to be made during the period. v. Amounts deposited, as required under the governing documents of funding obligations, into capital accounts or finance reserve accounts during the period. vi. Financing entity expenses paid or payable during the period. vii. Tax liabilities payable during the period.	viii. Amounts paid or payable by or on behalf of a financing entity during the period to any guarantor or surety that made a payment of an amount due and payable under a funding obligation, including pursuant to a guarantee, indemnity, contract of insurance or agreement entered into under subsection 5 (2) or (3) of the Act.	greater clairity.
2. After eliminating any duplication in the following amounts, calculate the sum of the following amounts: i. Amounts withdrawn, as required under the governing documents of funding obligations, from capital accounts or finance reserve accounts during the period. ii. Amounts received during the period in respect of funding rebates.	ii. Amounts received during the period in respect of funding rebates and carrying	

Current Regulation	Proposed Amendment	Rationale for Change
iii. Recovery amounts received during the period. iv. Refinancing amounts that are applied to repayments during the period. v. Any payments received in connection with a derivative agreement, including ordinary course receipts, payments received on termination and payments received in connection with margining or collateral arrangements. vi. Tax refunds received during the period. 3. Subtract the sum calculated under paragraph 2 from the sum calculated under paragraph 1.	costs.	
N/A	**IESO to pay, remit amounts re carrying costs of financing entity** **9.1** (1) During the period beginning on December 1, 2017 and ending on July 31, 2021, the IESO shall pay and remit to a financing entity any amounts charged to the IESO by the financing entity in respect of carrying costs of the financing entity during the period beginning on June 1, 2017 and ending on July 31, 2021. (2) For the purposes of determining the amounts to be paid and remitted under subsection (1), the IESO may rely on information provided by a financing entity with respect to the amounts.	Proposed amendments to O. Reg. 206/17 to establish the authority for the IESO to pay amounts related to financing entities’ carrying costs during the initial period of the program when such carrying costs cannot be recovered using CEAs (the “inflationary cap period” or “moratorium period”). This was necessary since without a mechanism for recovery of such carrying costs during the so-called moratorium period, Global Adjustment (GA) Refinancing may not be able to proceed as planned under the OFHPA or might significantly increase the costs associated with such refinancing.

Current Regulation	Proposed Amendment	Rationale for Change
	(3) The carrying costs of a financing entity for a period of time shall be determined as follows: 1. After eliminating any duplication in the following amounts, calculate the sum of the following amounts: i. Funding costs paid or payable during the period. ii. Derivative payments required to be made during the period. iii. Amounts deposited, as required under the governing documents of funding obligations, into accounts other than capital accounts during the period. iv. Financing entity expenses paid or payable during the period. v. Tax liabilities payable during the period. 2. After eliminating any duplication in the following amounts, calculate the sum of the following amounts:	

Current Regulation	Proposed Amendment	Rationale for Change
	i. Amounts withdrawn, as permitted under the governing documents of funding obligations, from accounts other than capital accounts during the period. ii. Any payments received in connection with a derivative agreement, including ordinary course receipts, payments received on termination and payments received in connection with margining or collateral arrangements. iii. Tax refunds received during the period. 3. Subtract the sum calculated under paragraph 2 from the sum calculated under paragraph 1. (4) The determination of the carrying costs of a financing entity for a period of time shall be made on an accrual basis accounting method. (5) The IESO may grant security to a financing entity in order to secure its obligations to pay and remit present and future amounts due under this section.	

Current Regulation	Proposed Amendment	Rationale for Change
N/A	FINANCIAL SERVICES MANAGER - FEES **Fees that may be established, charged** **10.1** (1) For the purposes of subsection 19 (3) of the Act, the fees established and charged by the Financial Services Manager may be charged to financing entities in relation to prescribed matters. (2) The Financial Services Manager shall not establish or charge any fees to financing entities other than those fees provided for under this Regulation. **Submission re general fee for 2017** **10.2** (1) The Financial Services Manager shall submit to the Board, on or before February 28, 2018, the proposed fee for the period beginning on June 1, 2017 and ending on December 31, 2017. (2) The proposed fee shall be $3.1 million plus the amount of any costs and expenditures paid during the period mentioned in subsection (1) by the Financial Services Manager in relation to prescribed matters. (3) The costs and expenditures referred to in subsection (2) include, but are not limited to, costs and expenditures in respect of the following:	As FSM, OPG is allowed to charge a fee for its services in relation to the establishment, management and administration of the financing entity and the investment asset, in accordance with the OFHPA. The proposed amendments to O. Reg. 206/17 would enable OPG to establish and charge fees in its role as FSM, and would also provide for the methodology for the calculation of those fees, and define the role of the OEB in reviewing and approving those fees. The proposed amendments are required to enable the calculation, review, and approval of FSM fees in such a manner as to account for the amount of debt issued, OPG performance, fees charged for comparable services, and to ensure OPG operates on a “commercial basis.” The proposed amendments split the fees into three time periods in order to ensure OPG is able to operate on a “commercial basis” for each period and to recover costs and expenditures incurred in relation to its role as FSM, and to facilitate the role of the OEB in reviewing and approving those fees.

Current Regulation	Proposed Amendment	Rationale for Change
	1. Underwriters or selling agents for funding obligations. 2. Banking fees, including but not limited to structuring fees or work fees. 3. Fees of issuing and paying agents for funding obligations. 4. Fees of trustees. 5. Fees incurred in the preparation of financial statements, financial reports, compliance certificates and tax returns. 6. Fees of legal counsel. 7. Rating agency fees. 8. Filing or registration fees. 9. Direct costs of the Financial Services Manager for employees whose work for the Financial Services Manager consists exclusively of the provision of the services described in subsection 2 (1) to financing entities. 10. Costs and expenditures incurred on behalf of any financing entity in connection with the Financial Services Manager's duties under the Act in relation to the financing entity. 11. Costs and expenditures incurred in	

<table>
<tr><th>Current Regulation</th><th>Proposed Amendment</th><th>Rationale for Change</th></tr>
<tr><td></td><td>relation to a management agreement between the Financial Services Manager and any financing entity, where the agreement provides for the reimbursement of the costs and expenditures.

(4) The submission shall include written confirmation from the Financial Services Manager’s external auditor or another external auditor of the following:

1. That the amounts of the costs and expenditures that the Financial Services Manager seeks to recover through fees, as set out in the submission, are accurate.

2. That the amounts of the costs and expenditures, as set out in the submission, were incurred by the Financial Services Manager.

3. That, except in the case of amounts referred to in paragraph 9 of subsection (3), the amounts were paid or payable to third parties.

Board review of general fee for 2017

10.3 (1) The Board may,

(a) approve the fee proposed under section 10.2; or

(b) subject to subsection (2), refuse to</td><td></td></tr>
</table>

Current Regulation	Proposed Amendment	Rationale for Change
	approve all or a portion of the amount included in the proposed fee relating to any costs and expenditures and approve the remainder of the proposed fee. (2) The Board may refuse to approve all or a portion of an amount relating to costs and expenditures if the Board is of the view that it was not incurred and paid in relation to prescribed matters. **Charging of general fee for 2017** **10.4** (1) If the Board approves a fee under section 10.3, the fee is payable no later than 30 days following the last day of the month following the month in which the Board's approval is given. (2) Where there is more than one financing entity, the portion of the fee allocated to and payable by a financing entity shall be based on a reasonable allocation as determined by the Financial Services Manager. **Submission re general fee for January 1, 2018 to March 31, 2019** **10.5** (1) The Financial Services Manager shall submit to the Board, on or before December 15, 2017, the proposed fee for the period beginning on January 1, 2018 and ending on March 31, 2019. (2) The Financial Services Manager shall	

Current Regulation	Proposed Amendment	Rationale for Change
	establish the proposed fee for the period mentioned in subsection (1) as follows: 1. Apply the following formula in respect of each funding tranche that forms part of the sum of the principal amounts of funding tranches issued in the period, other than any funding tranches that constitute a refinancing: $(A \times (B - C)) \times 0.10$ Where, A = the principal amount of the funding tranche, B = the forecast interest rate for the funding tranche, and C = the actual interest rate for the funding tranche. 2. Calculate the sum of the amounts determined by applying the formula under paragraph 1. 3. If the result calculated under paragraph 2 is greater than the following, decrease the result to an amount that is less than the following: the amount that is 2 per cent of the amount that is 5 per cent of the sum of the principal amounts of funding tranches	

Current Regulation	Proposed Amendment	Rationale for Change
	issued in the period, other than any funding tranches that constitute a refinancing. 4. If the result calculated under paragraph 2 is less than the following amount, increase the result to an amount that is greater than the following: the amount that is - 2 per cent of the amount that is 5 per cent of the sum of the principal amounts of funding tranches issued in the period, other than any funding tranches that constitute a refinancing. 5. Calculate the amount that is 0.00625 per cent of the average monthly funding obligation for each month in the period mentioned in subsection (1). 6. Calculate the sum of the amount determined under paragraph 2, after applying paragraph 3 or 4 as the case may be, and the amounts determined under paragraph 5. (3) If, subsequent to the initial submission to the Board under subsection (1), the Financial Services Manager determines that a funding tranche may be issued that was not contemplated in the initial submission, the following rules apply: 1. If the Board has not yet made a	

Current Regulation	Proposed Amendment	Rationale for Change
	decision in respect of the proposed fee, the Financial Services Manager may, on a day that is later than December 15, 2017 but before such day as may be specified by the Board, notify the Board and submit an amendment to the submission that sets out a forecast interest rate for that funding tranche. 2. If the Board has approved the proposed fee, the Financial Services Manager may, before such day as may be specified by the Board, submit to the Board a forecast interest rate for that funding tranche along with a proposal to amend the fee to include that funding tranche. 3. If the Board has refused to approve the proposed fee…. (4) A proposal to amend a fee under paragraph 2 of subsection (3) shall be deemed, for the purpose of the Board's review of the proposal, a new proposed fee under this section. **Board review of general fee** **10.6** (1) The Board may, (a) approve the fee proposed under section 10.5; or	

Current Regulation	Proposed Amendment	Rationale for Change
	(b) refuse to approve the fee if the Board is of the view that any forecast interest rate used for the purposes of paragraph 1 of subsection 10.5 (2) is materially inconsistent with market comparable forecast interest rates. (2) If the Board refuses to approve the proposed fee, (a) the Board may make recommendations to the Financial Services Manager regarding each forecast interest rate that the Board found was materially inconsistent with market comparable forecast interest rates; and (b) the Financial Services Manager shall submit to the Board, (i) a revised proposed fee that takes into consideration the recommendations of the Board, if any, and (ii) a description of the methodology that the Financial Services Manager has applied to determine revised forecast interest rates for each funding tranche in respect of which the Board found an inconsistency with market comparable forecast interest	

Current Regulation	Proposed Amendment	Rationale for Change
	rates. (3) If the Financial Services Manager submits a revised proposed fee, this section applies, with necessary modifications, to the submission as if it were the initial submission. **Charging of general fee** **10.7** (1) If the Board approves a fee under section 10.6, (a) subject to subsection (2), each monthly amount determined under paragraph 3 of subsection 10.5 (2) is payable no later than the last day of the month following the month in respect of which the amount was determined; and (b) all other amounts are payable no later than 30 days following the later of March 31, 2019 and the last day of the month in which the Board's approval is given. (2) If the Board approves a fee under section 10.6 after January 1, 2018, each of the monthly amounts referred to in clause (1) (a) is payable no later than the later of, (a) the last day of the month following the month in respect of which the amount was determined; and (b) the last day of the month following	

Current Regulation	Proposed Amendment	Rationale for Change
	the month in which the Board's approval is given. (3) Where there is more than one financing entity, the portion of the fee allocated to and payable by a financing entity shall be based on a reasonable allocation as determined by the Financial Services Manager. **Submission re base and variable fees for 2019-2020, subsequent years** **10.8** (1) The Financial Services Manager shall submit to the Board, on or before February 28, 2019 and on or before February 28 in each subsequent year, the proposed base fee and variable fee for the period beginning on April 1 in the year of the submission and ending on March 31 in the following year. (2) In this section and sections 10.9 to 10.12, a reference to a "year" means the 12-month period beginning on April 1 and ending on the following March 31. **Base fee** **10.9** (1) The Financial Services Manager shall establish a proposed base fee mentioned in subsection 10.8 (1) for each month in a year by determining the amount that it considers to be consistent with market comparable fees, expressed as a percentage of the average monthly funding obligation for the preceding month.	

Current Regulation	Proposed Amendment	Rationale for Change
	(2) The Financial Services Manager shall determine the amount that it considers to be consistent with market comparable fees by applying the following rules: 1. Subject to paragraph 2, the Financial Services Manager shall determine the average of at least five fees that satisfy the definition of “market comparable fee” in subsection 1 (1). 2. If the Financial Services Manager is not able to determine the average of five fees for the purposes of paragraph 1, the Financial Services Manager shall determine the average of as many fees as possible. 3. Subject to paragraph 4, the Financial Services Manager shall ensure that at least 80 per cent of the fees included in the average are fees charged by full-service managers of securitization vehicles. 4. If the Financial Services Manager is not able to ensure that at least 80 per cent of the fees meet the description set out in paragraph 2, the Financial Services Manager shall ensure that the highest percentage possible of the fees included in the average meets that description. (3) The Board may,	

Current Regulation	Proposed Amendment	Rationale for Change
	(a) approve the proposed base fee; or (b) subject to subsection (4), refuse to approve the proposed base fee if the Board is of the view that the proposed base fee is materially inconsistent with market comparable fees. (4) When determining whether the proposed base fee is materially inconsistent with market comparable fees, the Board shall apply the rules set out in subsection (2) and may use market comparable fees other than those used by the Financial Services Manager for the purposes of that subsection. (5) If the Board refuses to approve a proposed base fee, (a) the Board may make recommendations to the Financial Services Manager regarding the determination of a base fee that is consistent with market comparable fees; and (b) the Financial Services Manager shall submit to the Board, (i) a revised proposed base fee that takes into consideration the recommendations of the Board, if any, and	

Current Regulation	Proposed Amendment	Rationale for Change
	(ii) a description of the methodology that the Financial Services Manager has applied to determine the revised proposed base fee, including but not limited to details concerning the market comparable fees that the Financial Services Manager considered. (6) If the Financial Services Manager submits a revised proposed base fee, this section applies, with necessary modifications, to the submission as if it were the initial submission. (7) If the Board has not approved a proposed base fee by the first day of the year for which the proposed base fee would be charged, (a) the Financial Services Manager may continue to charge the base fee that was most recently approved by the Board, if any base fee was previously approved; and (b) the Financial Services Manager shall adjust the base fee in the month following the month in which the Board approves the proposed base fee, to reflect the difference between the base fee charged for the year to date and the base fee approved by the Board for the year to date.	

Current Regulation	Proposed Amendment	Rationale for Change
	Variable fee **10.10** (1) The Financial Services Manager shall establish a variable fee mentioned in subsection 10.8 (1) for a year as follows: 1. Apply the following formula in respect of each funding tranche that forms part of the net annual funding obligation for the year: $(A \times (B - C)) \times 0.10$ Where, A = the principal amount of the funding tranche, B = the forecast interest rate for the funding tranche, and C = the actual interest rate for the funding tranche. 2. Calculate the sum of the amounts determined by applying the formula under paragraph 1. 3. If the result calculated under paragraph 2 is greater than the following, decrease the result to an amount that is less than the following: the amount that is 2 per cent of the amount that is 5 per cent of the sum of the principal amounts of funding tranches issued in the period, other than any funding tranches that constitute a refinancing.	

Current Regulation	Proposed Amendment	Rationale for Change
	4. If the result calculated under paragraph 2 is less than the following amount, increase the result to an amount that is greater than the following: the amount that is - 2 per cent of the amount that is 5 per cent of the sum of the principal amounts of funding tranches issued in the period, other than any funding tranches that constitute a refinancing. (3) The Board may, (a) approve the proposed variable fee; or (b) refuse to approve a proposed variable fee if the Board is of the view that any forecast interest rate used for the purposes of subsection (1) is materially inconsistent with market comparable forecast interest rates. (4) If the Board refuses to approve the proposed variable fee, (a) the Board may make recommendations to the Financial Services Manager regarding each forecast interest rate that the Board found was materially inconsistent with market comparable forecast interest rates; and	

Current Regulation	Proposed Amendment	Rationale for Change
	(b) the Financial Services Manager shall submit to the Board, (i) a revised proposed fee that takes into consideration the recommendations of the Board, if any, and (ii) a description of the methodology that the Financial Services Manager has applied to determine revised forecast interest rates for each funding tranche in respect of which the Board found an inconsistency with market comparable forecast interest rates. (5) If, subsequent to the initial submission to the Board under subsection (1), the Financial Services Manager determines that a funding tranche may be issued that was not contemplated in the initial submission, the following rules apply: 1. If the Board has not yet made a decision in respect of the proposed fee, the Financial Services Manager may, on a day that is later than February 28 but before such day as may be specified by	

Current Regulation	Proposed Amendment	Rationale for Change
	the Board, notify the Board and submit an amendment to the submission that sets out a forecast interest rate for that funding tranche. 2. If the Board has approved the proposed fee, the Financial Services Manager may, before such day as may be specified by the Board, submit to the Board a forecast interest rate for that funding tranche along with a proposal to amend the fee to include that funding tranche. 3. If the Board has refused to approve the proposed fee…. (6) A proposal to amend a fee under paragraph 2 of subsection (5) shall be deemed, for the purpose of the Board's review of the proposal, a new proposed fee under this section. **In-year amendments to base fee or variable fee** **10.11** (1) The Financial Services Manager may, no more frequently than once in any consecutive twelve month period, make submissions to the Board to amend any fees approved by the Board under section 10.9 or 10.10, and section 10.9 or 10.10 applies, as the case may be and with necessary	

Current Regulation	Proposed Amendment	Rationale for Change
	modifications, in respect of the submissions. (2) Nothing in subsection (1) authorizes an amendment to a fee that would result in the fee failing to meet the criteria for approval set out in section 10.9 or 10.10, as the case may be. (3) If the Board approves an amendment to a fee under subsection (1), the fee as amended may be charged, (a) in the case of a base fee, starting in the month following the month in which the Board's approval is given; and (b) in the case of a variable fee, in respect of funding tranches issued starting in the month following the month in which the Board's approval is given. **Charging of base and variable fees** **10.12** (1) If the Board approves a fee under section 10.9 or 10.10, (a) in the case of a base fee, subject to subsection (2), the fee is payable no later than 30 days after the end of the month for which the fee is payable; and (b) in the case of a variable fee for a year, on the last day of the third month in the following year.	

Current Regulation	Proposed Amendment	Rationale for Change
	(2) If the Board approves a fee under section 10.9 after March 31, 2019, each of the monthly amounts referred to in clause (1) (a) is payable no later than the later of, (a) the last day of the month following the month in respect of which the amount was determined; and (b) the last day of the month following the month in which the Board's approval is given. (3) If the variable fee for a year is a negative amount, it shall be deducted from the first payments of base fees payable in the following year until the amount has been fully deducted. (4) Where there is more than one financing entity, the portion of the fees allocated to and payable by a financing entity shall be based on, (a) in the case of a base fee, the financing entity's proportionate share of the average principal amount of funding obligations for the applicable period; and (b) in the case of a variable fee, the portion of the variable fee attributable to the funding tranches issued by the financing entity. **Fees for costs and expenditures,**	

Current Regulation	Proposed Amendment	Rationale for Change
	submission to Board **10.13** (1) The Financial Services Manager shall submit to the Board a proposed fee for costs and expenditures, (a) no later than February 28, 2019, in respect of costs and expenditures incurred and paid during 2018; and (b) no later than February 28 in each subsequent year, in respect of costs and expenditures incurred and paid during the previous calendar year. (2) The fee may be established to recover the amount of costs and expenditures incurred by the Financial Services Manager in relation to prescribed matters. (3) The costs and expenditures referred to in subsection (2) include but are not limited to costs and expenditures in respect of the following: 1. Underwriters or selling agents for funding obligations. 2. Banking fees, including but not limited to structuring fees or work fees. 3. Fees of issuing and paying agents for funding obligations.	

Current Regulation	Proposed Amendment	Rationale for Change
	4. Fees of trustees. 5. Fees incurred in the preparation of financial statements, financial reports, compliance certificates and tax returns. 6. Fees of legal counsel. 7. Rating agency fees. 8. Filing or registration fees. 9. Subject to subsection (4), direct costs of the Financial Services Manager for employees whose work for the Financial Services Manager consists exclusively of the provision of the services described in subsection 2 (1) to financing entities. 10. Costs and expenditures incurred on behalf of any financing entity in connection with the Financial Services Manager's duties under the Act in relation to the financing entity. 11. Costs and expenditures incurred in relation to a management agreement between the Financial Services Manager and any financing entity, where the agreement provides for the reimbursement of the costs and	

Current Regulation	Proposed Amendment	Rationale for Change
	expenditures. (4) If the costs referred to in paragraph 9 of subsection (3) are paid after March 31, 2019, they are recoverable for a year only if the Board, upon reviewing the submission, makes the following determination: 1. A majority of the market comparable fees used by the Board for the purposes of subsection 10 (3) for a fiscal year that begins in the calendar year to which the submission under this section relates are charged by full-service managers of funds who, in addition to charging those fees, also recover costs that are materially consistent with and similar to the costs referred to in paragraph 9 of subsection (3) that are paid after March 31, 2019. (5) For the purposes of subsection (4), the Board shall consider whether the costs paid after March 31, 2019 are incurred in relation to the establishment, management and administration of the funds to which the market comparable fees relate. (6) For the purposes of subsection (4), a fiscal year begins on April 1 in a year and ends on March 31 in the following year. (7) The submission shall include written	

<table>
<tr><th>Current Regulation</th><th>Proposed Amendment</th><th>Rationale for Change</th></tr>
<tr><td></td><td>confirmation from the Financial Services Manager’s external auditor or another external auditor of the following:

1. That the amounts of the costs and expenditures that the Financial Services Manager seeks to recover through fees, as set out in the submission, are accurate.

2. That the amounts of the costs and expenditures, as set out in the submission, were incurred by the Financial Services Manager.

3. That, except in the case of amounts referred to in paragraph 9 of subsection (3), the amounts were paid or payable to third parties.

Board review of fee for costs, expenditures

10.14 (1) The Board may,

(a) approve the fee proposed under subsection 10.13 (1);

(b) subject to subsection (2) refuse to approve all or a portion of the amount included in the proposed fee relating to any costs and expenditures and approve the remainder of the proposed fee.

(2) The Board may refuse to approve all or a</td><td></td></tr>
</table>

Current Regulation	Proposed Amendment	Rationale for Change
	portion of an amount relating to costs and expenditures if the Board is of the view that it was not incurred and paid in relation to prescribed matters. **Charging of fee for costs, expenditures** **10.15** (1) If the Board approves a fee under section 10.14, the fee is payable no later than 30 days following the last day of the month following the Board's approval. (2) Where there is more than one financing entity, the portion of the fee allocated to and payable by a financing entity shall be based on a reasonable allocation as determined by the Financial Services Manager.	
16. For the purposes of paragraph 3 of subsection 24 (1) of the Act, the IESO shall record the following adjustments in a variance account each month: 1. All funding rebates and other amounts paid by the IESO to a financing entity during the month. 2. Any variance account balances in variance accounts established and maintained under subsection 25.33 (5) of the *Electricity Act, 1998* and costs incurred in relation to the balances.	**16.** 3. Any amounts paid or incurred by the	Proposed amendments to section 16 of O. Reg. 206/17 enable the IESO to record amounts related to financing entities' carrying costs in the variance account established under section 24 of the OFHPA, allowing such amounts to be included as part of the regulatory asset to be transferred to the financing entity as set out in the legislation. The overall net on-bill impact to specified consumers within the inflationary cap period is expected to be zero. This approach would be in accordance with the government's commitment to hold increases to electricity bills for a typical consumer to the rate of inflation for four years.

Current Regulation	Proposed Amendment	Rationale for Change
	IESO under section 9.1.	Adding the carrying costs to the variance account allows such amounts to be recovered through the CEAs on and after May 1, 2021.