Ontario

LEGISLATION AND REGULATIONS COMMITTEE: MINISTRY APPROVAL FORM

+LRC Tracking #: REG-11478

EVista Tracking #: SUB-REG-2017-01034

Ministry of Energy

Ontario Fair Hydro Plan Act, 2017, Ontario Energy Board Act, 1998
Regulations

Profile at a Glance

Priority: Key

Public Interest: Very High

Key Stakeholder Interest: High

New Costs/Burdens: Yes for Government, Yes for Stakeholders

New Savings/Opportunities: Yes for Stakeholders; No for Government

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Proposed Items for Review

A. GA Refinancing

1. Creating a new Regulation to be made under the *Ontario Fair Hydro Plan Act, 2017* (*OFHPA)*, which is Schedule 1 of the Fair Hydro Act, 2017.

B. Social Programs

1. Amending *Ontario Regulation (O. Reg.) 314/15 (Ontario Electricity Support Program)* made under the *Ontario Energy Board Act, 1998 (OEBA).*
2. Amending *O. Reg. 197/17* (First Nation Delivery Credit) made under the *OEBA.*

Approvals required prior to LRC

	Committee and date	Cabinet Date
Policy	Cabinet approval received May 10	
TB/MBC	TB/MBC approval received May 9	

Deputy Minister | Date

Minister | Date

s. 1 **Proposal and Context**

Supporting Electricity Rate Mitigation under the Fair Hydro Act

- 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); 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 GA would be 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).
- Today's electricity consumers have been bearing disproportionate cost responsibility for the investments in developing the clean, modern and reliable electricity system that Ontario has today and that will continue to provide benefit to future generations. The legislation recognizes the long-term benefit of clean energy investments into the future and more appropriately allocate costs into the future to account for long-term benefits.
- Refinancing a portion of the GA would provide significant and immediate rate relief to electricity consumers that have been burdened with the costs of the necessary investments that have been made to decarbonize and modernize the province's electricity infrastructure. Refinancing the GA would spread the cost of electricity investments so that they are shared proportionately by future consumers who cause a need for or benefit from the province's multi-billion dollar investments in electricity infrastructure.
- Under Schedule 1 of the *FHA* which enables GA Refinancing, electricity bills of typical residential consumers would be reduced by 25 per cent starting in summer 2017. In addition, Schedule 1 provides the authority under which further increases to electricity bills for typical consumers could be held to the rate of inflation. Up to 500,000 small businesses and farms would also benefit.
- Provisions under Schedule 2 of the *FHA* enable amendments to the OEBA and the creation of new programs targeted at vulnerable electricity consumers, including funding these programs from the tax base rather than the electricity rate base.
- The proposed General Regulation under Schedule 1 of the FHA is the next step in implementing GA refinancing. It provides mechanics required to implement financing transactions.
- The proposed amendments in this package are needed to implement the changes to the Ontario Electricity Support Program (OESP), under Ontario's Fair Hydro Plan (OFHP), as enacted under the FHA. The proposed amendments support the implementation strategy to increase enrolment of social assistance clients into the OESP.

A. GA Refinancing

1. Creating a new Regulation to be made under the *Ontario Fair Hydro Plan Act, 2017* (*OFHPA*), which is Schedule 1 of the Fair Hydro Act, 2017

- The Ministry of Energy is seeking approval to create a new Regulation under the Ontario Fair Hydro Plan Act (*OFHPA*) to enable the implementation of GA Refinancing.

- The proposed regulation would, if approved, provide further detail on the roles and responsibilities of the Financial Services Manager (FSM, i.e., Ontario Power Generation (OPG)), the Independent Electricity System Operator (IESO) and Ontario Energy Board (OEB) under the OFHPA.

- The proposed regulation would, if approved, also provide further criteria related to the development and implementation of the Financing Plan by the FSM, the operation of the FSM, the determination of funding obligations and finance amounts, the setting of the Fair Allocation Amount by the Minister of Energy and the recovery of the Clean Energy Adjustment from electricity consumers, as required under the OFHPA.

B. Social Programs

1. Amending *O. Reg. 314/15 (Ontario Electricity Support Program)* made under the *Ontario Energy Board Act, 1998*

- Recent legislative amendments to the *Ontario Energy Board Act, 1998 (OEBA)* provide the Ministry of Community and Social Services (MCSS) the authority to support the delivery of the OESP. These amendments came into force at Royal Assent on June 1, 2017.

- The proposed amendments to O. Reg. 314/15 are designed to enable MCSS to implement its new authorities. In particular, the amendments would recognize that MCSS processes for determining financial eligibility for social assistance (SA) programs (which includes Ontario Works and the Ontario Disability Support Program) are sufficient to determine OESP eligibility. The amendments would also ensure that all current SA clients and new applicants deemed financially eligible for SA will automatically be eligible for OESP.
- These amendments are intended to support the government's goal of substantially increasing uptake of the OESP.

2. Amending O. Reg. 197/17 (First Nation Delivery Credit) made under the *Ontario Energy Board Act, 1998.*

- This amendment is intended to correct an error in the legal name of a Local Distribution Company named in regulation.

s. 2	**Approach and Intended Outcomes**

A. GA Refinancing

1. Creating a new Regulation to be made under the *Ontario Fair Hydro Plan Act, 2017* (*OFHPA*), which is Schedule 1 of the Fair Hydro Act, 2017

- The proposed regulation supports key aspects of the OFHPA including:
  - The establishment and transfer of portions of the regulatory asset;
  - The establishment of the OFHPA-related deferral and variance account to be held by the Independent Electricity System Operator (IESO);
  - The definition and details regarding the "funding obligation" which relates to the recovery of moneys borrowed by OPG/financing entity to fund GA refinancing;
  - Methodology related to the calculation of the Clean Energy Adjustment (CEA, i.e., the total amount payable by electricity consumers each reference period) including the communication of the CEA amounts to be collected to the OEB for its use in setting rates;
  - Determination of rates and amounts related to the recovery of the CEA by the OEB under which regulated rate consumers must be invoiced and which must be used in the calculation of rates for non-regulated consumers;
  - Requirements for electricity vendors (on the IESO, LDCs, retailers and unit sub-meter providers (USMPs)) in relation to the collection of amounts in respect of the CEA from electricity consumers;
  - The composition of the FSM's fees and the OEB's role in the review of those fees (i.e. the fees related to the ongoing operation of the FSM during the period of GA Refinancing);
  - Details related to the methodology to be used by the Minister in the calculation of the Fair Allocation amount (i.e. a calculation of the fair allocation of clean energy costs over time); and
  - Further criteria related to the development and implementation of the Financing Plan by the FSM.
- The proposed regulation is necessary to ensure that the mechanisms for refinancing of GA as set out under the OFHPA are in place in time for the first debt offering in fall 2017.

B. Social Programs

1. Amending *O. Reg. 314/15 (Ontario Electricity Support Program)* made under the *Ontario Energy Board Act, 1998*

- As part of the OFHP, ENERGY has already completed the following legislative and regulatory changes on OESP:
  - Effective May 1, 2017, ENERGY completed a regulatory amendment to O. Reg. 314/15 to increase OESP credit amounts by 50% and expand eligibility criteria;
  - Corresponding legislative amendments to section 79.2 of the OEBA were made to enable the program to shift from the rate-base to the tax-base once the rate-base pooled funding has been depleted. The intended approach involves proclaiming s.79.2 of the OEBA into force on a future date to be named by proclamation; and
  - These legislative amendments also provided MCSS with data-sharing and information-sharing provisions for MCSS to deliver OESP to SA clients. Along with ss. amendments to s. 79, the new sections 79.3 and 79.4, came into force at Royal Assent on June 1, 2017.
- To align OESP with other social assistance programs, amendments to the OEBA were also required to give MCSS the authority to collect new information from SA clients and applicants, and give both MCSS and OEB the authority to share information regarding OESP enrolment.
- The proposed amendments to O. Reg. 314/15 will enable MCSS to implement these new authorities and help meet the government's goal of substantially increasing uptake in the OESP. Amendments include:
  - Changes to the OESP eligibility definitions so that household size and household income – the two main criteria for determining OESP eligibility – also capture the criteria that MCSS uses to determine financial eligibility for social assistance. These changes are needed because there are minor differences in how eligibility is determined between SA programs and the OESP;
  - Recognizing the "benefit unit" as eligible for OESP, such that a current or new SA client who is not the utility account holder, but is part of an account holder's benefit unit, can still receive support from MCSS to apply to the OESP;
  - Addressing current and future scenarios where those deemed financially eligible for OESP fall outside of the current OESP eligibility categories. Proposed amendments to Schedule 1 will ensure that anyone deemed financially eligible for social assistance (and is part of a benefit unit that is billed directly for electricity) is automatically eligible for OESP; and
  - Requiring an Agreement with OEB before MCSS can begin applying to OESP on behalf of those deemed financially eligible for SA.

- In order to implement these changes, MCSS is submitting to the Treasury Board a separate request for appropriate resources, using allocations already approved for enhancing the OESP as part of the Fair Hydro Plan.
- Pending the approval of the proposed amendments to O. Reg. 314/15 in this package, the next steps include:
    - Proclaiming s.79.2 of OEBA once the funds in the IESO OESP Variance account are depleted;and
    - Further amendments to O. Reg. 314/15 to implement the move from the rate base to the tax base.

2. Amending O. 197/17 Reg. (First Nation Delivery Credit) made under the *Ontario Energy Board Act, 1998*

- The approach reconciles the Cat Lake Reserve name with the distribution company who services the territory to provide for greater accuracy.
- This will ensure that residents of Cat Lake receive the FNDC and that there will be no confusion as to who will provide the credit

s. 3 Direction and Urgency

A. GA Refinancing

- The direction for the creation and implementation of GA Refinancing is found in the March 1, 2017 Cabinet Minute and subsequent public commitments.
- The reductions related to GA Refinancing have been announced to commence as of July 1, 2017.
- This timeline is now set out in legislation under the *OFHPA* which received Royal Assent on June 1, 2017.
- The proposed regulatory amendments and new regulation are necessary to implement Ontario's Fair Hydro Plan as legislated in the *OFHPA* by July 1, 2017.

B. Social Programs

- This proposal supports the government's objective to substantially increase program uptake of OESP. MCSS is moving forward expeditiously to make the administrative changes necessary to support alignment with SA program delivery and automate enrolment of SA clients into the OESP.
- The FNDC amendment is intended to amend the regulation prior to it coming into force on July 1st, thus ensuring continuity and remedying the error prior to the program commencing.

s. 4 **Impact Assessment and Costs**

A. GA Refinancing

Government Impact

- The proposed regulation does not involve a direct impact on the province.
- In order to finance the incurrence of funding obligations necessary to refinance the GA, OPG would require monthly "equity injections" from the Province but would be fiscally neutral as OPG would issue new shares to the Province in exchange for any equity injections it received from the Province.

Stakeholder Impact

- The proposed regulation would impact LDCs, USMPs and retailers, in relation to the amounts related to the Clean Energy Adjustment that they would apply to their customers' invoices.

Agency Impact

- OEB would be impacted in terms of the requirements for review of OPG/Special Purpose Vehicle (SPV) fees set out in the proposed regulation and in terms of determination of rates that will be applied to specified consumers in relation to the recovery of the Clean Energy Adjustments.
- In addition to the other activities that IESO must undertake to provide for the IESO monthly deferrals, IESO would be expected to record any reduction in amounts resulting from the Part II adjustments in a variance account, which will form part of the regulatory asset that IESO is expected to create.
- OPG and/or a financing entity created by OPG as FSM under the *OFHPA* would be expected to purchase specified portions of IESO's regulatory asset. The regulatory asset becomes the investment asset when it is purchased initially by OPG as FSM through its special purpose vehicle (SPV), and subsequently investment interests to be added to that asset, which are key to the securitization central to the refinancing of the GA.

B. Social Programs

i. Social Programs

Government Impact

- As approved in the TB/MBC submission of March 1st, 2017 and confirmed in Vote-Item 2905-1, the financial impacts on Government of the social programs for the period July 1 2017- March 31 2018 are anticipated to be as follows:

Program	2017-18 Budget
Ontario Electricity Support Program	140,000,000

- ENERGY will report back to TB/MBC in fall 2017-18 with an update on out-year projections following analysis on rate applications before the Ontario Energy Board.
- There are no additional costs associated with the FNDC amendment.

Stakeholder Impact

- Cost impacts for the amending O. Reg. 314/15 are expected to be negligible. There is significant overlap between the financial eligibility for the OESP and other social assistance programs, resulting in very few occurrences where SA clients do not meet the current OESP eligibility requirements.

Agency Impact

- The OEB will support implementation in two general ways. First, as per the amendments to the OEBA, it has authority to share information about OESP enrolment with MCSS in order to identify SA clients that currently receive utility bills but are not currently enrolled in OESP. This will help MCSS to undertake targeted outreach to current SA clients that can be enrolled in OESP.
- Second, OEB and its OESP delivery consultant – ICF Consulting – will help MCSS to expeditiously prepare for implementation by providing training materials and technical support for MCSS system changes. Cost impacts are expected to be minimal and are covered by the OEB's existing authorities to cover administration costs related to the OESP using the OESP variance account.
- The IESO would be responsible for flowing the funds used to compensate LDCs for the costs of delivering the social programs from the money appropriated for such purposes from the legislature. This would require the IESO to monitor program specific information portal and flow the amounts necessary to compensate LDCs for the costs incurred in carrying out the programs.

s. 5 **Implementation**

A. GA Refinancing

- The proposed regulation would, if approved, provide further detail on the roles and responsibilities for the organizations who are responsible for implementing GA Refinancing under OFHPA.
- This includes detail on the roles and responsibilities of the Financial Services Manager (FSM, i.e. Ontario Power Generation (OPG)), the Independent Electricity System Operator (IESO) and Ontario Energy Board (OEB) under the OFHPA.
- The proposed regulation would, if approved, also provide further criteria related to the development and implementation of the Financing Plan by the FSM, the operation of the FSM, the setting of the Fair Allocation Amount by the Minister of Energy and the recovery of the Clean Energy Adjustment from electricity consumers, as required under the OFHPA.

B. Social Programs

- MCSS will be responsible for implementing the proposed regulatory changes, which were designed to support a strategy jointly developed by ENERGY, the OEB, and MCSS to meet the government's objective of substantially increasing OESP uptake by aligning it with SA program delivery. MCSS is concurrently seeking Treasury Board approval for resources to implement these proposed changes.
- There are no implementation concerns or considerations associated with the FNDC amendment.

s. 6 Delivery and Results Tracking

A. GA Refinancing

- Further work to enable GA refinancing to be undertaken Summer/Fall 2017:
  - Minister to determine the Fair Allocation Amount for each reference period;
  - OPG/SPV to produce Financing Plans that would set out funding obligations for each reference period consistent with the Fair Allocation Amount;

- IESO to record deferral amounts and establish the regulatory asset;
- OPG/SPV 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.

B. Social Programs

- ENERGY will continue to track the performance of the OESP program with a focus on collecting metrics related to program uptake.
- There are no tracking considerations associated with the FNDC amendment.

s.7 Stakeholder Consultations

A. GA Refinancing

- The development of the proposed regulations was preceded by extensive consultation with representatives from OEB, IESO, OPG and LDCs.
- As appropriate, other Ministries were provided with drafts of the regulation and amendments and consulted on particular issues.
- A steering committee chaired by the Deputy Minister met and were briefed weekly on the status of the regulations (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).

Regulatory Registry:

- On May 15, 2017, the Ministry of Energy posted multiple proposals for comment on the Regulatory Registry to provide stakeholders with the opportunity to comment on the electricity rate mitigation initiative.
- The posting included proposed changes to existing regulations and new regulations needed to support the implementation of GA Refinancing.
- The posting closed on June 10, 2017. No comments were received on the proposed new regulation.

B. Social Programs

Agencies and Government

- ENERGY has been engaging with MCSS and the OEB for several months to develop a strategy for meeting the government's objective of substantially increasing OESP uptake by aligning it with SA program delivery. The joint strategy instructed the recent amendments to the OEBA, and the changes to O.Reg. 314/15 that are being proposed in this submission.
- ENERGY, MCSS, and the OEB continue to work together on various aspect of the project management to support the implementation of the strategy to increase OESP uptake.

Regulatory Registry:

- On May 12, 2017, the Ministry of Energy posted multiple proposals for comment on the Regulatory Registry to provide stakeholders with the opportunity to comment on the electricity mitigation initiative. The posting included proposed changes to OESP, RRRP, new regulations needed to support the social programs, and changes to invoicing requirements. The posting closed on June 10, 2017.
- The Ontario Federation of Agriculture provided a written submission through the regulatory posting to express support of the changes to the OESP.

Standing Committee of Justice - Public Hearings for Bill 132:

- On May 23-25, 2017, the following organizations made presentations to the legislative committee and spoke to provisions under Schedule 2 (social programs):
  - **The Ontario Energy Association:** Expressed support for social programs
  - **United Way Bruce Grey:** Supported all the social programs a means to assist customers with their bills.
  - **Low Income Energy Network:** Supported all the social programs a means to assist customers with their bills.
  - **The Chiefs of Ontario (COO):** Supported the First Nations Delivery Credit.

s.8 Other Jurisdictions and Harmonization

A. GA Refinancing

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

- GA refinancing does not harmonize Ontario rules with other jurisdictions and is not comparable to other Canadian jurisdictions.

B. Social Programs

- The social programs do not harmonize Ontario rules with other jurisdictions and are not comparable to other Canadian jurisdictions.

s. 9 Communications

- Energy has prepared a Communications Snapshot for OESP which summarizes the approach outlined in this document to communications.

s. 10 Contacts and Appendices

Contacts

	Name	Phone Number
Ministry Policy/Program	Tim Christie/Sunita Chander	5-6708/5-6594
Ministry Legal	Carolyn Calwell	2-8392
Ministry Communications	Karen Evans	7-6541
Assistant or Deputy Minister's Office	Martin Schlaepfer	6-7688
Cabinet Office Policy	Tim Hindmarch-Watson	5-4618

Appendices

Appendix A: Regulation Comparison Chart

Appendix B: Proposed Regulations

Appendix C: Communications Snapshot