



LEGISLATION AND REGULATIONS COMMITTEE:
MINISTRY APPROVAL FORM

LRC Tracking #: DLEG-783 EVista Tracking #: SUB-DL-2016-00141

Ministry of Energy

Amending the *Ontario Clean Energy Benefit Act, 2010* to establish regulation-making authority to prescribe a final date after which electricity consumers and vendors would no longer be entitled to unpaid financial assistance.

Legislation

Profile at a Glance

Priority: Other regular business

Public Interest: Moderate

Key Stakeholder Interest: High

New Costs/Burdens: No for Stakeholders; No for Government

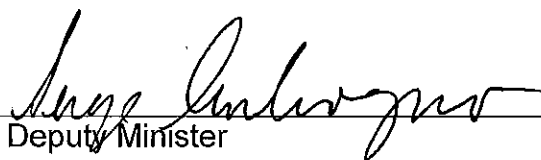
New Savings/Opportunities: No for Stakeholders; Yes for Government

Proposed Items for Review

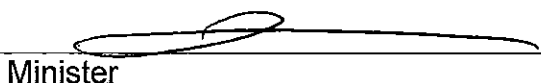
1. New legislation titled the *Ontario Clean Energy Benefit Amendment Act, 2016*

Approvals required prior to LRC

	Committee and date	Cabinet Date
Policy	Not applicable	
TB/MBC	Not applicable	


Deputy Minister

Jan. 27, 2016
Date


Minister

Jan. 27, 2016
Date

s. 1 Proposal and Context

From January 1, 2011 to December 31, 2015, the Ontario Clean Energy Benefit (OCEB) provided families, small businesses and farms with a credit of ten per cent of the total cost of electricity on eligible consumers' bills, including tax. Since September 2012, this credit was limited to the first 3,000 kilowatt hours of electricity consumed each month. The credit was put in place as a temporary measure to help consumers manage their electricity costs as the province invested in its transition towards a clean, modern and more reliable electricity system.

The OCEB's existing statutory framework does not specify an end date for consumers to receive unpaid OCEB amounts to which they were entitled, or specify an end date for government reimbursement of such OCEB amounts. Even though the program has ended, consumers could still be entitled to retroactive credit of OCEB amounts for up to the full five years the program was in effect.

The Ministry of Energy seeks approval to amend the *Ontario Clean Energy Benefit Act, 2010* (OCEBA) so that potential retroactive payments could be time-limited. The proposed amendments would create regulation-making authority to establish a final date for consumers to receive OCEB amounts, and a final date for electricity vendors to be reimbursed for OCEB amounts provided to consumers. Circumstances under which these dates would not apply would also be established.

These dates and any exceptions would be set out in a proposed regulatory amendment once the proposed legislative amendments were passed.

**s. 2 Approach and
Intended Outcomes**

The proposed legislative changes would establish regulation-making authority to prescribe:

- A final date after which electricity consumers would no longer be entitled to unpaid OCEB amounts,
- A final date by which electricity vendors could obtain reimbursement from the Government for eligible OCEB amounts provided to consumers, and
- Any circumstances under which the above would not apply.

While the final date after which electricity consumers would no longer be entitled to unpaid OCEB amounts would be determined in regulation, consideration is currently be given to December 31, 2017.

Based on the chosen consumer cut-off date, ENERGY would propose establishing an end date that would likely be 3 months after for electricity vendors (e.g. local distribution companies) to claim reimbursement from the Government. This would provide the electricity vendors with time to process OCEB payments.

The proposed legislative amendments and future regulatory amendments would eliminate further Ministry liability for OCEB amounts after the prescribed final date for electricity vendors to obtain reimbursement, subject to any exceptions established in the proposed regulatory amendments.

The proposed changes are not expected to affect the majority of OCEB eligible customers, as audits conducted by the Ministry of Finance to date suggest that there are minimal errors in the application of the program.

While qualification for the program was generally automatic, customers who are eligible for the OCEB and did not receive it have had up to 5 years to come forward to their electricity vendor to rectify the error.

s. 3 Direction and Urgency

The Ministry of Energy would like to implement a timeline for the removal of this potential liability quickly since program eligibility has already ended. Delays in implementing legislative and regulatory changes could increase the potential size and period of time that the liability exists.

s. 4 Impact Assessment and Costs

Estimates of the potential size of the liability related to retroactive payments are highly uncertain due to data limitations, and the lack of a quantifiable way to determine how many qualifying customers did not receive the OCEB, or how many will ultimately come forward and make a claim.

The Ministry of Energy does not have a lot of data available to estimate the potential impact of this future liability, however, based on a very rough estimate, the amount could be about \$45 million.

In order to address this potential cost, the Ministry proposes to establish an accrual from existing OCEB funding. This accrual would be retained until the final date that electricity vendors could obtain reimbursement for OCEB amounts provided to consumers.

After this date, the accrual may be removed completely, or the amount may be reduced if any exceptions are contemplated in the proposed regulatory amendments.

s. 5 Implementation

If the proposed legislative amendments are passed, then proposed regulatory amendments would be brought forward for consideration that would establish final dates by which consumers could make claims, electricity vendors could be reimbursed by the province, and any circumstances under which these dates may not apply.

**s. 6 Delivery and
Results Tracking**

Not applicable.

**s.7 Stakeholder
Consultations**

Following approval of the proposed legislative amendments, the Ministry of Energy proposes to communicate with electricity vendors to ensure that they are aware that a consumer and vendor end date will be implemented as part of a regulatory amendment. Feedback from vendors on these dates will be considered, along with suggestions they may have on circumstances under which these dates should not apply.

**s.8 Other Jurisdictions
and Harmonization**

Not applicable.

s. 9 Communications

Planning a low key communications approach, which could include coordination with the OEB, the IESO, and electricity vendors.

Information from the OCEB has been broadly available to electricity consumers, this has included media coverage outlining how electricity bills changed beginning January 1, 2016. For this reason, additional communications with OCEB eligible customers on legislative and regulatory amendments is not planned.

**s. 10 Contacts and
Appendices****Contacts**

	Name	Phone Number
Ministry Policy/Program	Anna Di Misa and Sunita Chander	416-212-3561/ 416-326-5752
Ministry Legal	Dan Shear	416-325-6685
Ministry Communications	Megan Biggs John Whytock	416-325-4194 416-327-6541
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Cabinet Office Policy		

Appendices

Appendix A: Compendium
Appendix B: Draft Legislation
Appendix C: Communications Plan Snapshot

Communications Snapshot: Limiting Future Liability of the Ontario Clean Energy Benefit

Communications Objectives

Propose amendments to the *Ontario Clean Energy Benefits Act, 2010* that would establish a final date by which consumers can claim the Ontario Clean Energy Benefit (OCEB).

Context

- Qualified electricity consumers were eligible to receive the Ontario Clean Energy Benefit (OCEB) on electricity consumption for the period from January 1, 2011 to December 31, 2015.
- The existing statutory framework does not have a specific end date for reimbursement of unpaid OCEB provided to entitled consumers.
- Even though the OCEB program has ended, consumers could still qualify for retroactive unpaid OCEB amounts for up to the full five years the program has been in effect.
- ENERGY is proposing to amend the *Ontario Clean Energy Benefits Act, 2010* and related regulations to end the government's liability to retroactively provide the benefit to consumers who qualified for the OCEB but did not receive it during its five-year lifespan.
- The proposed amendments would establish a final date by which consumers can claim the OCEB.
- Establishing a final date for unpaid OCEB will reduce the Government's liability for paying out claims indefinitely.
- Estimates of the potential liability related to retroactive payments are uncertain due to data limitations, and the lack of a quantifiable way to determine how many qualified customers did not receive the OCEB, or how many claims may be made. Rough estimates indicate the amount could be about \$45 million.
- ENERGY will propose an end date after which consumers would no longer be entitled to retroactive OCEB payments as part of future regulatory amendments, but consideration is currently being given to December 31, 2017. This proposed date would allow consumers two (2) years following the end of the program to receive any unpaid OCEB amounts.
- Any OCEB overpayments received by consumers would be required to be returned to the Province, regardless of end dates established to limit government liability
- Based on the chosen consumer cut-off date, ENERGY would propose establishing an end date 3 months after for utilities to claim reimbursement from the Government. This would provide the utilities with time to process OCEB payments.
- Recommending the establishment of a legislative framework that would utilize regulatory mechanisms to outline specific details:
 - Legislation to establish regulation-making authority to prescribe:
 - A final date after which electricity consumers would no longer be entitled to unpaid OCEB amounts
 - A final date by which utilities could obtain reimbursement from ENERGY for eligible OCEB amounts provided to consumers
 - Any circumstances under which the above would not apply
 - Regulation to follow up with regulatory changes outlining specific details, including:
 - Specific dates up to which (i) electricity consumers are entitled to unpaid OCEB amounts, and (ii) utilities are entitled to reimbursement for OCEB amounts provided
 - Any prescribed conditions under which unpaid OCEB amounts and/or reimbursement would be provided after the cut-off dates

Issues and Mitigation

Group	Anticipated Reaction	Key Messages
Eligible electricity consumers (residential and small businesses)	Consumers may be upset and argue the responsibility to ensure they received the OCEB rests with their utility.	The OCEB program was in place for five years and customers still have the opportunity to come forward with any issues about unpaid OCEB up until the end date (to be determined by regulation).
Utilities	Utilities would support these changes since it would eliminate the need to maintain OCEB related billing requirements	The elimination of this liability will allow utilities to remove OCEB billing capabilities (showing retroactive OCEB adjustments) after the proposed end date.

Key Messages

- From January 1, 2011 to December 31, 2015, the OCEB provided Ontario families, farms and small businesses with a 10 per cent credit on applicable electricity charges and taxes.
- The proposed amendments to the *Ontario Clean Energy Benefit Act, 2010* would establish a specific end date for reimbursement of unpaid OCEB to entitled consumers.

Strategic Approach

- QA that addresses the end date for reimbursement for consumers to get unpaid OCEB, and for utilities to get unpaid reimbursement.
- The Ministry of Energy will work with Finance to explore inclusion of the legislative tools to address the OCEB liability in the Spring Budget Bill.

Tactics & Rollout

Launch Event	
Proposed Date and Time	Location
N/A	N/A
Description (What is the event, who is leading it? If it's a third party event, how does it connect to the announcement?)	
No event proposed.	
Visual/Photo-op (Describe the backdrop (e.g., protected greenbelt forest) and describe any planned photo ops (e.g., boarding a new TTC streetcar).	
N/A	
Speakers & Attendees	
Government speakers: N/A	
Other speakers: N/A	
Estimated number of attendees: N/A	

	Pre-Launch	Launch	Post-Launch
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Regional Rollout Examples: - MPP Template - Speeches - Media event - Op-ed, media pitch - Editorial board meeting	• N/A	• N/A	• N/A
Earned Examples: - News release, etc. - Remarks - Event - Calls/emails to targeted audiences - Multilingual media - Fact sheets - House Statement	• N/A	• N/A	• N/A
Digital / Social Examples: - Web content - Twitter/Facebook - Keyword / interactive web - Blogger outreach	• N/A	• N/A	• N/A
Paid <i>(must include budget)</i> Examples: - TV/radio/newspaper - Online banners/ads - Advertorial - Householder/direct mail	• N/A	• N/A	• N/A

Evaluation

COMPENDIUM

Ontario Clean Energy Benefit Amendment Act, 2016

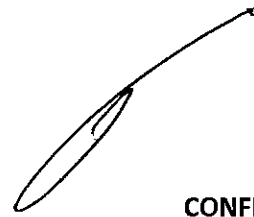
The proposed legislation amends the *Ontario Clean Energy Benefit Act, 2010*.

Ontario Clean Energy Benefit Act, 2010 (OCEBA)

A new section (6.1) would be added to the OCEBA to create cut-off dates for the payment of financial assistance to consumers and for the reimbursement of electricity vendors or other persons for financial assistance provided by them to consumers. The actual cut-off dates for payment and for reimbursement, as well as any exceptions to their application, are to be set out by regulations made under the OCEBA.

A corresponding amendment is made to the regulation-making authority in subsection 15 (1) of the Act.

Clause 6 (2) (i), the definition of “Minister” in section 7, clauses 11 (1) (a) and (2) (a), subsection (7) in the portion before clause (a), and subsection (8) in the portion before clause (a), would be amended to update the references to the “Minister of Revenue” so that they are references to the “Minister of Finance”.



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Ontario Clean Energy Benefit Amendment Act, 2016

EXPLANATORY NOTE

The Bill amends the *Ontario Clean Energy Benefit Act, 2010* to add a new section 6.1, which creates cut-off dates for the payment of financial assistance to consumers and for the reimbursement of electricity vendors or other persons for financial assistance provided by them to consumers. The eligible period to which financial assistance under the Act relates is already defined in subsection 2 (1) of the Act as being January 1, 2011 to December 31, 2015. The actual cut-off dates for payment and for reimbursement, as well as any exceptions to their application, are to be set out by regulations made under the Act; a corresponding amendment is made to the regulation-making authority in subsection 15 (1) of the Act.

In addition, several references to the Minister of Revenue are updated.

An Act to amend the Ontario Clean Energy Benefit Act, 2010

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Ontario Clean Energy Benefit Act, 2010* is amended by adding the following section:

Cut-off dates for financial assistance, reimbursement

Financial assistance

6.1 (1) Despite any entitlement of consumers to financial assistance under this Act, no financial assistance is payable to a consumer after the date prescribed by the regulations in respect of the consumer, other than in such circumstances as may be prescribed by the regulations.

Reimbursement

(2) Despite any requirement under this Act to reimburse an electricity vendor or other person for financial assistance provided by them to consumers, no amounts for reimbursement are payable to the electricity vendor or other person after the date prescribed by the regulations in respect of the electricity vendor or other person, other than in such circumstances as may be prescribed by the regulations.

2. The following provisions of the Act are amended by striking out “Minister of Revenue” wherever it appears and substituting in each case “Minister of Finance”:

1. Clause 6 (2) (i).

2. The definition of “Minister” in section 7.

3. Clauses 11 (1) (a) and (2) (a), subsection (7) in the portion before clause (a) and subsection (8) in the portion before clause (a).

3. Subsection 15 (1) of the Act is amended by adding the following clause:

(i.1) setting out one or more dates for the purposes of subsection 6.1 (1) or (2), and governing the circumstances in which that subsection does not apply;

Commencement

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Ontario Clean Energy Benefit Amendment Act, 2016*.