Ontario

MINISTRY OF
ENERGY

# Ontario's Fair Hydro Plan – Minister's Update

January 17, 2018

CONFIDENTIAL

# Context

- On March 2, 2017, the Province announced Ontario's Fair Hydro Plan (OFHP). Effective July 1, 2017, OFHP has lowered electricity bills by 25 per cent on average for residential electricity customers and will hold increases to the rate of inflation for four years. As many as half a million small businesses and farms are also benefitting from the reduction.

- The reduction reflects a number of initiatives, including the refinancing of a portion of the Global Adjustment (GA), the shifting of cost recovery for electricity support programs (Ontario Electricity Support Program and the majority of Rural or Remote Rate Protection) from electricity bills to provincial revenues, and the 8 per cent rebate introduced on January 1, 2017.

- OFHP also includes initiatives to reduce costs for low-income, rural/remote, and First Nations consumers, as well as measures to benefit larger consumers.

- Through the Rate Mitigation Implementation Group and subcommittees, the Ministry of Energy continues to work through implementation of the following OFHP initiatives:
  - GA Refinancing;
  - Electricity Support Programs (i.e., Rural or Remote Rate Protection, Ontario Electricity Support Program, First Nation On-Reserve Delivery Credit); and
  - The Affordability Fund.

# 1) Global Adjustment (GA) Refinancing

- The *Ontario Fair Hydro Plan Act, 2017* (OFHPA), enables IESO to establish a variance account to record the deferral amounts from the difference between collections from current ratepayers and payment obligations to generators and conservation, and to create a regulatory asset as the Act provides IESO the right to recover the balance in the variance account.
  - The IESO can then sell the regulatory asset – the right to recover those deferred amounts from specified consumers in the future
  - OPG, as the Financial Services Manager (FSM), is authorized to establish one or more financing entities that may incur funding obligations to finance the purchase of the regulatory asset
  - A financing entity purchasing the regulatory asset would effectively finance IESO's shortfall in current rates not received from ratepayers.

- In order to support the establishment of a financing entity, facilitate ongoing funding requirements of GA refinancing and optimize ratepayer impacts, OPG and the Province have been working with ENERGY agencies, key ministries, and external advisors on finalizing the details for a number of business items:
  - Provincial support agreements;
  - OPG's Financing Plan / Market Activity;
  - OPG's Equity Injection;
  - Protocol for Subordinated;
  - PILs Exemption; and
  - OPG / IESO Commercial Agreement.

**Current Status:**

- Ongoing business issues (see following slides for more detail).

# 1a) Business Items – Provincial Support Agreements

- A Change of Law Protection Agreement has been negotiated between the Province, OPG, the Issuer Trustee and the Indenture Trustee. An accompanying Change of Law Process Agreement has been negotiated between the Province and OPG, which covers procedural mechanics as they pertain to the rights and responsibilities of the two parties.
  - To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds from capital markets (planned to be 51%, with other financing to come from OPG and, indirectly, the Province). OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable or would result in higher financing costs, to be passed on to ratepayers. Note: OPG also requires the provincial support agreements to secure its "warehousing" credit facility.
- The Ministers of Energy and Finance have the authority to negotiate and enter into a protection agreement that supports the Financing Entity and prospective debt holders such that the Province would take over the funding obligations of the Financing Entity, under certain circumstances, including:
  - Actions of the Legislative Assembly that undermine the financing arrangement; i.e., repeal or amendment of the Ontario Fair Hydro Plan Act, 2017, or new legislation that adversely affect the Financing Entity;
  - A court decision that declares the rights of the Financing Entity to recover amounts from ratepayers to be invalid or unenforceable; and
  - Changes to the organization, structure or operations of IESO or a change in the electricity market structure or operations that adversely affects the ability of the Financing Entity to recover amounts related to funding obligations.
- In the event the protection agreement is triggered, the Province will be required to pay the obligations of the Financing Entity including principal and interest payments on debt issued to date, any payments to derivatives counterparties and any outstanding payments to service providers.

**Current Status:**

- Business Item completed. On December 14, 2017, MOF / OPG / ENERGY finalized the Protection Agreement and Process Agreement based on Term Sheet approved by TB/CAB.

# 1b) Business Items – OPG Financing Plan / Market Activities

- Under the OFHPA, the Minister of Energy is required to regularly calculate the Fair Allocation Amount (FAA) to ensure a proper alignment of the allocation of the intergenerational costs and benefits for each of the next 60 six-month reference periods.
  - OPG, in its role as FSM, is to produce a Financing Plans that would set out funding obligations for each reference period consistent with the FAA. On September 28, 2017, the Minister sent a letter to the OPG Board Chair setting out FAA and readjustment amounts (RAs). ENERGY and OPG exchanged data to support the amounts included in the Minister's letter.
  - OPG has provided drafts of the Financing Plan to Ministry of Energy for comment.

- For GA Refinancing to continue, OPG needs to be able to purchase the investment asset from IESO. Until the purchases take place, IESO must manage the reduction in GA received from electricity consumers.
  - It is intended that IESO will be able to recover the balance of the variance account by the end of the calendar year.
  - In December 2017, OPG utilized its "short-term" warehouse facility to purchase the investment asset from IESO. Its is expected that OPG will purchase this investment assent from IESO on a monthly basis.
  - In January 2017, OPG will proceed to issuing senior notes in the capital markets.

**Current Status:**

- Business Item completed. On December 20, 2017, OPG finalized the Financing Plan and provided it to the Ministry of Energy.
- Business Item completed. On December 21, 2017, OPG purchased the regulatory asset via the warehouse facility.
- With respect to market activities, OPG ~~is expected to~~ launched its marketing activities on January 22, 2018 (i.e., by disclosing documents used in its marketing road show) and started its cross Canada road show on ~~the~~ January 29 (i.e., Montreal, Toronto, Winnipeg and Vancouver). Transaction ~~would~~ is expected to be priced on February 5 or 6 and close the week of February 12. OPG ~~would~~ is aiming to do technical briefing the week of February 12 (after the transaction close).

# 1c) Business Items – Equity Injections

- To purchase the regulatory asset from IESO, an OPG financing entity has been established to borrow funds from the following:
  - Capital markets (51%); and
  - Subordinated OPG debt, financed through equity injections from the Province (44%) and OPG, financing from capital markets (5%).
- OPG will require equity injections on an ongoing basis in order to provide the 44% share of financing for the financing entity to acquire the regulatory asset from IESO and keep its capital structure in line, and will require flexibility in order to issue shares to the Province as needed, under a share subscription agreement.
- The Ministry of Energy will be responsible for seeking approval for the investment envelope each year and managing the share subscription arrangement with OPG.
  - On a periodic basis, OPG will send a notice of share subscription to the Ministry of Energy, requesting a certain amount of equity based on the amount of the regulatory asset it plans to purchase in a fiscal year; the Ontario Financing Authority will flow the funds.
- The Ministry of Energy and OPG signed a Master Subscription Agreement on November 29, 2017 outlining the process for the periodic equity injections.
- The OFA will make the equity injection payments to OPG on the Ministry's behalf. This process is outlined in an OFA-ENERGY MOU that was signed on December 6, 2017.

**Current Status:**

- On December 20, 2017, First equity injection closed.  Next asset transfer/equity injection expected to take place in March 2018.

# 1d) Business Items – Protocol for Subordinated Debt

- OPG is lending the equity injection from the Province to the Trust by way of subordinated debt and junior subordinated debt

- ~~OPG proposes that~~ OPG, the Fair Hydro Trust and the OFA have entered into a subordinated debt loan agreement, which outlines the terms of the subordinated debt.

- The protocol outlines that the interest rate will be the aggregate of a Base Rate and Applicable Spread.

- OPG has proposed that interest rates on the subordinated debt be established as follows:
  - At the time when senior bonds are being issued to take out (term out) the short term financing, OPG will seek indicative coupon rates on the subordinated debt from dealers, reflecting the sum of underlying Government of Canada yield of equivalent term and the appropriate credit spread based on a survey of at least five dealers.
  - During the Trust short term financing period, when bank facilities are used as funding vehicles, the interest rate on subordinated debt will be the sum of (1) funding rate on senior debt, and (2) additional spread margin of based on survey of at least five dealers.

**Current Status:**

- Business Item completed. On December 19, 2017, OPG, OFA and the Ministry of Energy signed the protocol.

# 1e) Business Items – PILs Exemption

- The first financing entity established by OPG, in its capacity as Financial Services Manager is a trust (Trust). The Trust is subject to tax under the *Income Tax Act* (Canada) and the Ontario *Taxation Act, 2007*. The beneficiary of the Trust is a corporation (i.e., FHP2017 Inc.).~~ that will be directly or indirectly wholly-owned by OPG.~~
  - FHP2017 Inc., as a subsidiary of OPG, is exempt from federal and provincial corporate taxes payable by private sector companies. Instead, FHP2017 Inc., is subject to tax under the payments in lieu of federal and provincial income taxes (PILs) regime under the *Electricity Act, 1998 (EA),* and pays PILs to the Ontario Electricity Financial Corporation (OEFC).

- In order to mitigate the cost to ratepayers, amendments to O. Reg. 586/17 under the EA have been passed ~~are being drafted by MOF~~ that ~~would~~ exempt FHP2017 Inc. from PILs on income received as beneficiary of the Trust.

- Should OPG, as Financial Services Manager, establish other financing entities in the future for purposes of the OFHP, the Ministry of Finance will consider recommending similar treatment to the Minister of Finance.

**Current Status:**

- Business Item completed. On December 22, 2017, MOF filed updates to O. Reg. 586/17: Payments In Lieu of Corporate Taxes, under Electricity Act, 1998.

# 2) First Nations Delivery Credit (FNDC)

- Section 79.4 of the OEB Act provides for a delivery credit to offset the costs that make up the delivery line for on-reserve consumers, paid for through funds appropriated by the Legislature. It also provides for regulation making authority to define who is an on-reserve consumer and what areas constitute a “reserve”.

- The central piece of the FNDC regulation surrounds the eligibility criteria. The regulation limits eligibility to all First Nations residential on-reserve customers, regardless of whether the customer is seasonal or permanent. The definition of key terms, such as “reserve”, “member of a band”, are taken directly from the traditional meaning provided in the Indian Act.

- Since July 1, 2017 the FNDC has provided on-reserve First Nations households, who are customers of licensed electricity utilities, a credit equal to 100% of the electricity delivery charge on their electricity bills. Data reported by IESO reveals that over 20,000 customers are receiving FNDC – this was the target number pre-launch and reflects a successful rollout.

- The Ministry of Energy, in collaboration with the Chiefs of Ontario (COO), crafted the policy in a manner which best reflected the needs and wishes of First Nations in Ontario and to meet the implementation date of July 1, 2017.

  - Some leaders of First Nations that do not have reserve lands have expressed concern about being excluded from eligibility. (e.g., the Algonquins of Ontario and non-status First Nation groups).

  - COO continues to advocate for the expansion of the FNDC to include Band-owned buildings. The Chiefs Committee on Energy focused on this issue at a meeting with Ministry of Energy staff on November 9, 2017 in advance of the Leaders in the Legislature & Energy Table meeting held on November 22, 2017.The Ministry has indicated that it is open to further discussions and will need to assess the costs of expanding the program.

  - The Chiefs Committee on Energy committed to collecting information on delivery costs for Band-owned buildings from all First Nations in Ontario and to provide this data to the Ministry. On Jan. 12, 2018 COO shared with ENERGY preliminary data on costs for Band-owned buildings on-reserve. The information provided didn’t meet ENERGY’s need and we are currently considering next steps.

**Current Status:**

- The Chiefs Committee on Energy has proposed a follow up discussion within the first two weeks of February.

- The Ministry has been asked to identify new initiatives that have not been identified through the PRRT processfor 2018, and will be putting forward the expansion of the FNDC for consideration. The Ministry also received data from Hydro One Networks and Hydro One Remote communities Inc. to determine a cost estimate.

# 3) Ontario Electricity Support Program Regulation (OESP)

- As part of the FHP, recent amendments to Section 79.2.2 of the OEBA gave the Ministry of Community and Social Services (MCSS) and the OEB authority to share personal information. This authority is required to align OESP delivery with other social assistance (SA) programs and automate OESP enrolment in a way that meets privacy requirements under the *Freedom of Information and Protection of Privacy Act, 1990*.
  - The purpose of this exercise is to increase OESP uptake, which is one of the approved activities in the FHP TB Minute (March 1, 2017).
- Implementation activities underway by MCSS:
  - In July 2017, MCSS received TB/MBC approval for 20 temporary FTEs to enrol SA clients into the OESP. MCSS determined more resources are needed, and received approval from TB/MBC on January 11, 2018 for 10 additional, temporary FTEs in 20117/18 and 12 additional, temporary FTEs in 2018/19, and to expand its First Nations Strategy. The Ministry of Energy is supporting by providing funds from its OESP allocation that was approved in March 2017 under the FHP.
  - The MCSS OESP call centre is now operational and is executing enrollment for SA clients. The call centre is directly contacting SA clients currently not enrolled in OESP by phone and letter. OESP Posters and brochures are being distributed to SA offices.
  - Software system upgrades are underway to enable more streamlined automatic enrolment, but in the meantime, OESP applications will still be manual. The automatic enrolment solution is anticipated for early 2018-2019.

**Next Steps:**

- Provisions in s. 79.2 of the OEBA need to be proclaimed to shift the OESP from the rate-base to the tax-base. This is will align with the depletion of the OESP variance account, which is expected in February 2018.
- The Ministry is also proposing changes to the OESP regulation to enable OEBA changes, and to create approval and reporting authorities so the Ministry can perform due diligence and oversight of tax-based program expenses, including those incurred by the OEB.  This package is scheduled for LRC on January 23.
- Wet signature issue is being addressed by the OESP service provider, and anticipates a solution for Q1 2018.

# 4) Affordability Fund

- Ontario's Fair Hydro Plan (OFHP) established an Affordability Fund to help Ontarians who do not qualify for low-income conservation programs to make energy efficiency improvements to their homes, which could not otherwise be done without the support.
  - The Affordability Fund, established through the tax base, is being administered by an independent Trust.

- On October 24, 2017, the Affordability Fund was launched through a formal announcement and press release. The press release included information regarding a toll-free number and website through which customers are able to submit an intake form.
  - As of January 12, 2018, 2,522 applications have been received to date, of which 1,794 have been delivered to 47 active LDCs. Eligible customers are expected to start receiving benefits through the Affordability Fund in early 2018.

- In Fall 2017, through the 2018-19 PRRT process, ENERGY provided TB/MBC with a report back on the Affordability Fund including program application process, eligibility criteria, program monitoring and spending to date. ENERGY also stated that it will continue to assess the need for an additional funding request.

- On December 19, 2017, Trustees and IESO met with ENERGY to discuss changes to Home Assistance Program income-eligibility requirements and impact on Affordability Fund eligible population.

**Current Status:**

- January 2018: Trust to begin approving LDC initial budget allocations. Trust to also commence recruitment of an Executive Director to support the Board.

- February 2018: ENERGY to report back to TB/MBC through the PRRT process with final program details and a performance management framework including outcome measures and targets.

# 5) Industrial Conservation Initiative (ICI)

- On April 10, 2017, Ontario amended O. Reg. 429/04 to allow smaller manufacturers and greenhouses with an average monthly peak demand of greater than 500 kilowatts (kW) and less than 1 megawatt (MW) to participate in ICI, in addition to the consumers over 1 MW who were already eligible.

- ICI was previously expanded on January 1, 2017, when the eligibility threshold was lowered from 3 MW to 1 MW and sector restrictions were removed.

- Newly eligible ICI participants that opted in to the program began being billed as Class A (i.e., program participants) consumers for their July 2017 consumption.

- Prior to the expansions, there were approximately 300 ICI participants. According to data provided by IESO, approximately 1100 participants have opted in for the current adjustment period.

**Current Statues:**

- ENERGY is continuing to work with the Ontario Chamber of Commerce (OCC) and Canadian Manufacturers and Exporters (CME) on outreach campaigns to promote awareness of the ICI program.

# 6) Bill Redesign

- The Redesign Action Plan (RAP) was launched in the summer of 2017 with the aim of revising the regulatory framework on invoicing to improve the value of electricity bills to all consumers in Ontario.
- As part of this plan, the Ministry:
  - Engaged with Hydro One and BEWorks to learn more about how consumers react to the information presented on bills.
  - Formed the RAP LDC Working Group to seek the best advice from industry on how to develop new invoicing requirements.
  - Undertook qualitative consumer engagement to hear directly from customers on their billing preferences (Fall 2017).
  - Undertook quantitative research to validate qualitative findings/Hydro One research (December 2017)
- Informed by this work, the Ministry moved forward with regulatory changes, effective January 1, 2018, that require LDCs to provide customer-specific OFHP savings on their invoices by no later than March 31, 2018. This requirement replaces the previous static OFHP on-bill message.
- The Ministry is continuing work on the broader re-design initiative, with plans to bring forward proposed regulatory changes in March 2018. LDCs would be given until the end of 2018 to come into compliance with any new requirements.
  - This updated framework will be informed by the consumer research undertaken in 2017.
  - To encourage LDCs to push beyond the minimum regulatory compliance, the Ministry, is seeking to procure a third party (e.g. BEworks), to develop bill templates that are compliant with the new regulatory framework for LDCs to use in their bill redesign efforts, if desired.

# OFHP Key Milestones

**2017** Sep | Oct | Nov | Dec | **2018** Jan | Feb | Mar | Apr | May | Jun

## GA Refinancing

- **Sept. 29**
  - OPG Board Meeting to approve OFHP Items
- **Nov 3 & Nov 24:** Regulatory Amendments to address commercial/ financing requirements filed
- **Dec (TBD)**
  - Financing Plan
  - Rating Agency Process
  - PILs exemption;
  - Provincial Support Protection Agreements / OIC; and
  - Interest Protocol Agreement
- **Dec 20:** Trust purchase of regulatory asset
- **Late Jan:**
  - Initial issuance of term debt
- **Ongoing Financing**
  - OPG to purchase Regulatory Asset from IESO on monthly basis
  - OPG to issue long-term bonds periodically
  - Province to inject capital into OPG periodically as requested
  - Regulatory amendments related to inflationary increases in years 3 and 4

## Social Programs (FN Delivery Credit, OESP)

- **Sept. 18**
  - First full reimburse-ment request received from IESO
- FNDC LDCs sign up eligible customers
- Minister letter to OEB on cost forecasting
- PRRT Update
- Proclaim OEBA amendments / support reg changes to shift OESP funding / admin to government
- Hydro One Distribution Rate Application Oral Hearing and Adjudication (Decision timeline TBD by OEB)
- OEB to revise Maximum Distribution Charge

## Affordability Fund

- LDC Engagement, Program Design to be finalized
- Program Launch
- PRRT Update
- Trust expects to enter into agreements with interested distributions starting January 2018 ~~mid to late December 2017~~.

## Billing

- Research and Consultation
- LRC
- LDC Implementation

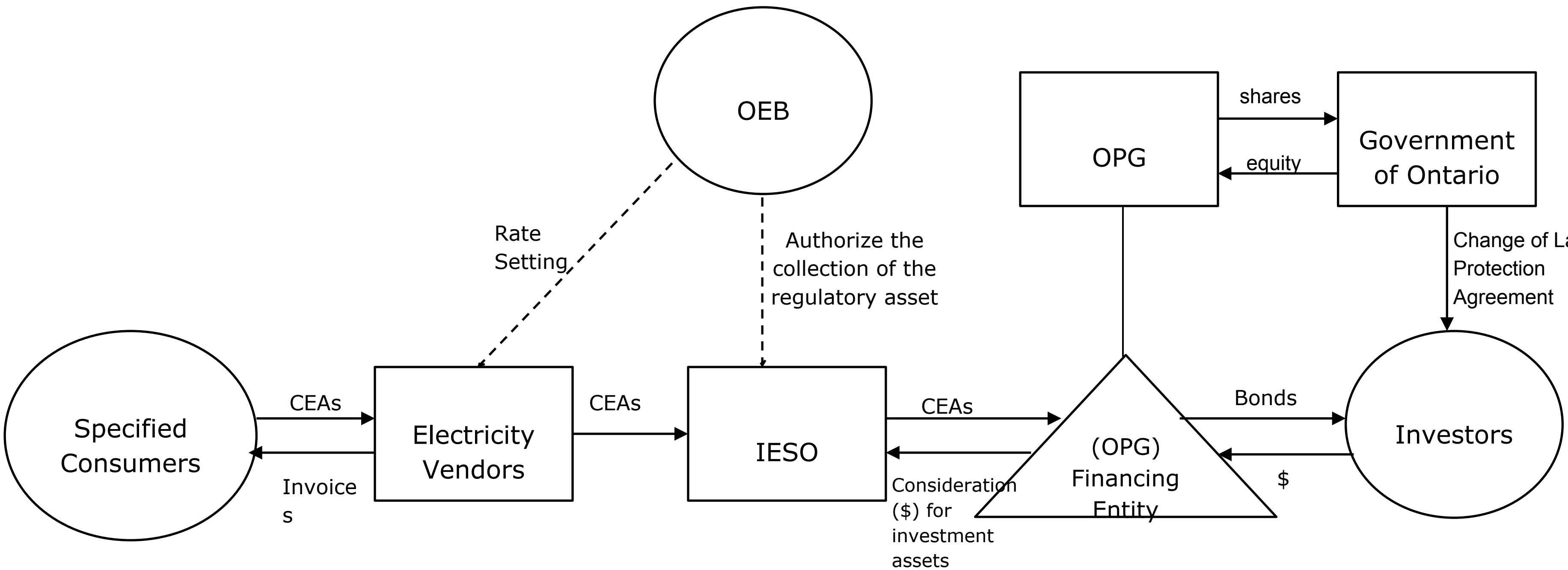
# Appendix

# Governance and Delivery Structure for Implementation of Ontario's Fair Hydro Plan

**Affordability Fund Trust - Board of Trustees**

- 3 electricity distributors
- 2 social service agencies
- 1 (non-voting) government

# Global Adjustment Refinancing – Roles and Responsibilities




Note: CEAs are “clean energy adjustments”