MINISTRY OF ENERGY

TREASURY BOARD / MANAGEMENT
BOARD of CABINET SUBMISSION

ONTARIO'S FAIR HYDRO PLAN – REPORT BACK

June 13, 2017

CONFIDENTIAL
MINISTRY OF ENERGY

1.0 MINISTRY REQUEST

1. The Ministry of Energy is reporting back with updates to the Treasury Board/Management Board of Cabinet (TB/MBC) on the following:

   i. Implementation of Global Adjustment (GA) Refinancing; and

   ii. Delivery of Electricity Social Programs (i.e., Rural or Remote Rate Protection, and First Nations On-Reserve Delivery Credit).

2.0 PURPOSE OF REQUEST

On May 31, 2017, Bill 132, the *Fair Hydro Act, 2017* (*FHA*), which enables Ontario's Fair Hydro Plan (OFHP) under the *Ontario Fair Hydro Plan Act, 2017*, (*OFHPA*) and the implementation of electricity social program-related amendments to the *Ontario Energy Board Act, 1998*, was passed by the legislature.

- The OFHPA will lower bills by 25 per cent for a typical residential consumer, starting July 1, 2017. In addition, increases to electricity bills would be held to the rate of inflation for four years. Up to half a million small businesses and farms would also benefit.

- OFHP also announced other measures to enhance business competitiveness, helping vulnerable consumers and reduce the cost of electricity over the longer term.

  Note: These measures include the 8 per cent rebate introduced in January 2017 and build on previously announced initiatives to deliver broad-based rate relief on electricity bills for consumers.

On May 11, 2017, the government introduced Bill 132, *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.*

On May 31, 2017, the Bill passed third reading and received Royal Assent on June 1, 2017.

On May 9, 2017, as part of its *FHA* review, TB/MBC requested that the Ministry report back on key updates and the details of the proposed regulations that would support OFHP.

On June 14, 2017, to support implementation of OFHP, LRC / Cabinet will review a first package of proposed regulation and amendments and on June 27, 2017, a second package of regulations. These are necessary to ensure that the 25 per cent reduction on electricity bills is in place by July 1, 2017.

The new *OFHPA* and the proposed regulations and amendments described throughout, along with the independent accounting analysis, legal support and technical analysis and future financial agreements (i.e., expected to be reached and signed in fall 2017) should together mitigate the financing, accounting and legal issues raised in the March 1, 2017 Cabinet Submission and the May 9, 2017 TB submission.

1. Implementation of GA Refinancing:

Ontario's energy system is being transformed – more than $50 billion has been invested to decarbonize and modernize the electricity system, including an investment of over $35 billion in clean and renewable generation.

Over the last decade the government has invested in Ontario's transmission and distribution infrastructure (i.e., the grid), clean generation and phased out the use of coal-fired generation, which has resulted in electricity price increases.

On March 2, 2017, as part of OFHP, it was announced that a portion of the Global Adjustment (GA) would be refinanced in order to more 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 *OFHPA* which enables GA Refinancing, electricity bills of typical residential consumers would be reduced by 25 per cent starting in July 1, 2017. In addition, increases to electricity bills would be held to the rate of inflation for four years. Up to 500,000 small businesses and farms would also benefit.

Proposal

On June 14, 2017, to support implementation of OFHP, LRC / Cabinet will review the following proposed regulation and amendments:

- Creating a new Regulation made Under Part II of the *Ontario Fair Hydro Plan Act, 2017* which is under Schedule 1 of the *Fair Hydro Act, 2017;* and
- Amendment to O. Reg. 280/14 (IESO Eligible Investments and Borrowing) to be made under the Electricity Act, 1998.

On June 27, 2017, to support implementation of OFHP, LRC / Cabinet will review the following proposed regulation:

- Creating a new Regulation (“General Regulation”) to be made under the *Ontario Fair Hydro Act, 2017*.

Implementation

To implement GA refinancing and mitigate financing, accounting and legal risks, the Ministry has:

- Worked closely with key ministries (i.e., TBS-OPCD, MOF-OFA/IGS, MAG, CO), OEB, IESO, OPG and their independent advisors and third party financiers (i.e., dealers);

- On June 1, 2017, the *OFHPA*, which enables GA refinancing and responds to the financing, accounting and legal issues outlined in the March 1, 2017 Cabinet Submission, received Royal assent. Note: The Ministry has also prepared regulations to support implementation (as noted above);

- Sought independent advice regarding financing, accounting and legal requirements from E&Y (OPG), KPMG (IESO), TD Securities (OFA) and Blakes (ENERGY); and

- Launched third party technical analysis to assist with implementation of GA refinancing.

2. Social Programs:

To date, a number of electricity support programs are funded through the electricity rate-base. There is opportunity to provide support to a more targeted subset of customers who are disproportionately affected by increased electricity costs and to shift these costs to the tax base.

These customers include:

- **High Distribution Cost Customers:** Some customers in rural areas where the cost to distribute electricity is high can experience difficulty in reducing their electricity bill through conservation, particularly when reliant on electric heating.

- **Low-Income Customers:** Rising electricity costs make up a disproportionally large amount of the household expenditures for low-income households.

- **First Nation On-Reserve Customers:** On-Reserve First Nations customers experience challenges with energy affordability and are seeking to address historical grievances associated with electricity system infrastructure.

The legislative amendments enable the creation or expansion of programs that provide meaningful rate relief to these customers.

In addition to amending two existing regulations and introducing two new regulations to roll out the social programs, the Ministry is also making several consequential amendments to other regulations and introducing a new invoicing regulation under the *Fair Hydro Act, 2017*. These changes include:

- Creating a new Invoicing Regulation made under the Ontario Fair Hydro Plan Act, 2017.

- Amending the O. Reg 363/16 (General) under the *Ontario Rebate for Electricity Consumers Act, 2016.*

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

Proposal

The Government introduced legislation and is now developing regulatory changes for the enhanced electricity support programs which will shift costs from the rate base to the tax base, as well as establish the necessary frameworks to deliver these new or enhanced programs.

Rural or Remote Rate Protection

Rural or Remote Rate Protection (RRRP) mitigates some of the high costs of electricity distribution in rural or remote areas of the Province. It is a legacy program of the old Ontario Hydro and has existed in its current form since 2001.

The new legislation enables, through regulation, the transfer of the costs of funding the program for Hydro One's R2 customers from the rate-base to the tax-base for prescribed customers (R2 customers are those customers of Hydro One classified as living in the lowest density areas of the Province).

Proposed amendments to O. Reg 442/01 would provide for a fixed monthly credit ($60.50), replacing the existing prescribed annual amount and would remove the escalating factor, as provisions under the new section 79.3 under the OEBA provides benefits in addition to RRRP for Hydro One's R2 customers, making the escalating factor unnecessary.

New benefits under section 79.3 of the OEBA would hold R2 customers to a maximum monthly base distribution charge – in addition to the $60.50 monthly RRRP benefit.

Distribution Rate Protection

While the RRRP program helps mitigate some of the higher distribution costs for Hydro One R2 customers, as well as certain customers served by Algoma Power, Hydro One Remote Communities and James Bay First Nation LDCs, there is an opportunity to provide further relief to consumers served by higher distribution cost LDCs.

The new legislation enables tax-based funding to support distribution rate protection for prescribed residential customers of LDCs with high-cost distribution rates. Eight high-distribution cost LDCs whose customers are eligible customers will be prescribed in regulation. Residential customers of Algoma Power and Hydro One R2 customers would be eligible for additional relief as these LDCs are the highest cost distributors in the province.

The proposed prescribed distributors are:

- Atikokan Hydro Inc.
- InnPower Corporation
- Chapleau Public Utilities Corporation
- Sioux Lookout Hydro Inc.
- Northern Ontario Wires Inc.
- Lakeland Power Distribution Ltd. (Parry Sound Rate Zone)
- Algoma Power Inc. (residential)

- Hydro One Networks Inc. (Low & medium density classified customers)

The regulation will set out a process that the OEB will utilize to determine the maximum monthly distribution charge that all prescribed high-cost distributors will charge their customers. In future years, this harmonized monthly charge, by design, cannot decrease as it adjusts to reflect the higher of either the lowest rate LDC in the program, or the maximum monthly charge of the previous year, as determined by the OEB.

On-Reserve First Nations Delivery Credit

As part of discussions on Hydro One shares and rates at COO's All Chiefs Conference and the First Nations-Ontario Energy Table, the Minister of Energy issued a letter directing the OEB to prepare a report providing "advice on options for an appropriate electricity rate (or rate assistance) for on-reserve First Nations electricity consumers". The legislative amendments to the *Ontario Energy Board Act, 1998*, are premised around the findings in the OEB Report submitted to the Ministry on December 29, 2016.

The program involves the elimination of the delivery charge, or monthly service charge for those customers served by LDCs that do not have a delivery charge, for on-reserve residential First Nations customers as prescribed in regulation. Eligibility is restricted to those residential rate class First Nations customers who are members of a band as defined under the federal *Indian Act*.

The regulation does not stipulate any process for identifying on-reserve customers eligible for the credit but rather allows LDCs the flexibility to continue using their existing HST exemption processes.

<u>Implementation</u>

Rural or Remote Rate Protection (RRRP)

Appropriated funds shall be used to offset the cost of RRRP available to Hydro One R2 customers for electricity consumed on or after July 1, 2017.

The implementation of the amended RRRP program (moving the majority of costs to the tax base) will require oversight of the money appropriated from the legislature by the Ministry of Finance (MOF).

The OEB currently sets the amount of the charge that recovers the cost of RRRP from all Ontario electricity customers. Once the regulatory mechanism is in place to enable the recovery of the majority of RRRP costs from the tax base, the OEB will significantly reduce the RRRP charge. The regulation will also contain transition provisions to bridge the transition from rate payer funding to provincial funding, as well as mechanisms for sharing of information and funding flows. Change to the funding structure of the program does not require any additional implementation risks or efforts.

Distribution Rate Protection

Appropriated funds shall be used to offset the cost of providing distribution rate protection to prescribed residential distribution rate protected consumers based on electricity consumed on or after July 1, 2017.

LDCs and eligible customers will be prescribed in regulation. The regulation will prescribe the process by which the Ontario Energy Board would determine a maximum monthly distribution charge for prescribed customers of prescribed high-cost LDCs.

Affected LDCs would be impacted through the efforts required to adjust their billing systems in order to carry out the program. There are transitional provisions that provide distributors with a prescribed time by which they must have adapted their billing systems while maintaining program eligibility for the rate assistance being provided. As part of the regulations, Energy intends to prescribe eligibility as of July 1, 2017. Distributors would be given a three month transitional period to begin delivering the rate assistance by no later than October 1, 2017. The regulation will also contain mechanisms for sharing of information and funding flows.

On-Reserve First Nation Delivery Credit

The new regulation will set out the program particulars including eligibility for the program. The regulation limits eligibility to all residential rate class First Nations customers living on reserve served by the 11 affected LDCs. The 11 affected LDCs serving on-reserve consumers identified by the OEB in its report include: Algoma Power Inc., Attawapiskat Power Corporation, Bluewater Power Distribution Corporation, Cat Lake Power Utility Ltd., Cornwall Electric Distribution, Hydro One Networks Inc. Hydro One Remote Communities Inc., PUC Distribution Inc., and Thunder Bay Hydro Electricity Distribution; Fort Albany Power Corporation; and Kashechewan Power Corporation.

There are transitional provisions that provide distributors with a prescribed time by which they must have adapted their billing systems while maintaining program eligibility for the rate assistance being provided. As part of the regulations, Energy intends to prescribe eligibility as of July 1, 2017. Distributors would be given a three month transitional period to begin delivering the rate assistance by no later than October 1, 2017.

11 affected LDCs will need to alter their billing systems to reflect the regulatory requirement to include a First Nations Delivery Credit line item on the bill directly below the delivery charge, or blended rate if applicable.

3.0 KEY CONTEXT

On June 1, 2017, the *Fair Hydro Act, 2017*, the legislation to enable the Ontario Fair Hydro Plan (OFHP) under the *Ontario Fair Hydro Plan Act, 2017* (OFHPA) received Royal assent. The OFHPA will reduce the electricity bills of typical residential consumers by 25 per cent starting in summer 2017. Up to 500,000 small businesses and farms would also benefit.

OFHP also announced other measures to enhance business competitiveness, helping vulnerable consumers and reduce the cost of electricity over the longer term.

The Ministry's report back and update to TB/MBC focuses on the following OFHP initiatives:

1) Implementation of GA Refinancing:

Under the *OFHPA*, a portion of the GA would be refinanced in order to more 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 to more appropriately allocate costs into the future to account for long-term benefits.

Refinancing a portion of 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, by spreading 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.

To implement GA refinancing and to mitigate the financing, accounting and legal risks, the Ministry has:

- Worked closely with key ministries (i.e., TBS-OPCD, MOF-OFA/IGS, MAG, CO), OEB, IESO, OPG and their independent advisors and third party financiers (i.e., dealers);

- Developed the *Fair Hydro Act, 2017* which enables the OFHP under the *Ontario Fair Hydro Plan Act (OFHPA), 2017*, to respond to the financing, accounting and legal issues outlined in the March 1, 2017 Cabinet Submission. Note: On June 1, 2017, the *OFHPA* received Royal assent.

- Developed supporting regulations which further contribute to the implementation of the OFHP under the legislation;

    - One new regulation and one amendment to existing regulation is due to go to the June 14, 2017 LRC/Cabinet; and

    - A further new proposed regulation is due to go to the June 27,2017 LRC/Cabinet – a draft of this proposed regulation will be available as part of that LRC package.

- Sought independent advice regarding financing, accounting and legal requirements from E&Y (OPG), KPMG (IESO), TD Securities (OFA) and Blakes (ENERGY); and

- Launched a third party technical analysis project to assist with implementation of GA refinancing.

On June 14, 2017, to support implementation of OFHP, LRC / Cabinet will review the following proposed regulation and amendments:

- Creating a new Regulation made Under Part II under the *Ontario Fair Hydro Plan Act, 2017*, which is Schedule 1 of the *Fair Hydro Act, 2017*:
    - The Ministry of Energy is seeking LRC approval to create a new Regulation under the *Ontario Fair Hydro Plan Act* (*OFHPA*) to support the required calculations to be made by the Ontario Energy Board (OEB) under Part II of that Act (sections 6-12).
    - The proposed regulation outlines the methodology that the OEB will use in applying *OFHPA* reductions to eligible consumers who participate in the OEB's Regulated Rate Plan (RPP)) and non-regulated consumers who are eligible for GA refinancing under *OFHPA*.
    - The proposed regulation sets out the near-term reductions (i.e., the reductions that will be applied by the OEB from July 1, 2017 to April 30, 2018), as well as the reductions from May 1, 2018 to April 30, 2019. Further adjustments to be made for future periods beginning

May 1, 2019 would be set out in further amendments to the Part II regulation.

- In addition, the proposed regulation also sets out that customers of unit sub-meter providers (USMPs) would receive a proportionate share of near-term OFHPA reductions.
- If the regulation is approved, the OEB intends to release new RPP rates effective July 1, 2017 that will include the full impact of OFHP as determined under the Part II adjustments.
- For consumers eligible for GA refinancing that are not on the RPP, adjustments would be made on their electricity consumption from July 1, 2017 onwards as necessary. Note: Consumers not paying RPP would also receive GA refinancing if they meet the other criteria defined in the OFHPA under "specified consumers" in the OFHPA. These include consumers that have opted-out of RPP to sign contracts with electricity retailers or become wholesale consumers and those who are eligible for *Ontario Rebate for Electricity Consumers Act, 2016* (ORECA), but not RPP, such as long-term care homes.
- In accordance with the *Ontario Fair Hydro Plan Act,* the OEB will determine the adjustment to be made to the GA charge on eligible non-RPP consumers' bills, effective July 1st. Electricity vendors will be expected to ensure the adjustment is reflected on their customers' bills as soon as possible, and to make retroactive payments where necessary.

- Amendment to O. Reg. 280/14 (IESO Eligible Investments and Borrowing) to be made under the *Electricity Act, 1998*:
  - The Ministry of Energy is seeking LRC approval to amend O.Reg. 280/14 in response to the *OFHPA* and related regulations.
  - The proposed amendments would provide the Independent Electricity System Operator (IESO) with the necessary authority related to its *OFHPA* activities, including the funding, borrowing and financial arrangements contemplated under the *OFHPA*. The IESO would be responsible for selling specified portions of the regulatory asset to OPG's financing entities, and to fund the IESO monthly deferrals which are to commence July 1, 2017, as provided for under section 23 of the OFHPA.
  - The additional authority set out in the proposed amendments to O.Reg. 280/14 would enable IESO to borrow amounts to fund the above-noted deferrals related to GA refinancing.
  - IESO would be expected to amend its Statement of Borrowing in a manner consistent with the amended regulation, once approved.

- On June 27, 2017, to further support implementation of OFHP, LRC / Cabinet will review a new Regulation ("General Regulation") to be made under the *Ontario Fair Hydro Plan Act*, 2017.

2) Social Programs:

<u>Program Design</u>

Rural or Remote Rate Protection (RRRP)

The legacy RRRP program remains intact with no changes made to the amount of the rate protection or the eligible LDCs. The legislation provides the authority for the government to prescribe classes of customers, customers or LDCs that would be funded through the tax-base rather than the rate-base.

The government will identify Hydro One R2 customers, by regulation, as having RRRP funded through appropriated funds.

Distribution Rate Protection

The new Distribution Rate Protection program, to complement the Rural or Remote Electricity Rate Protection (RRRP) program, was established through legislative amendments under the *Fair Hydro Act, 2017*. Eligible residential customers would have their monthly base distribution charges held to a maximum amount.

Distribution rate protection would be extended to eligible residential customers served by LDCs with the highest distribution costs. Roughly 800,000 customers would receive benefits from the broadened rate protection.

Customers of the following LDCs are eligible for the enhanced protection: Hydro One (R1 and R2 rate classes), Algoma Power, Atikokan Hydro, InnPower, Chapleau Public Utilities Commission, Sioux Lookout Hydro, Lakeland Power (Parry Sound service territory) and Northern Ontario Wires Inc.

On-Reserve First Nations Delivery Credit

The regulation prescribes eligibility to all First Nation residential rate class customers living on-reserve. First Nations customers are prescribed in regulation as account holders who are members of a band as defined by the federal *Indian Act*.

There are 11 LDCs identified by the OEB that provide service to on-reserve customers affected by the program. These include: Algoma, Attawapiskat, Bluewater, Cat Lake, Cornwall, Fort Albany, Kashechewan, Hydro One, Remote Communities, PUC(Sault Ste. Marie), Thunder Bay. In total, about 21,500 residential customers may be eligible.

The credit will automatically apply to the bills of those customers who have already registered with their LDC as HST exempt. Customers who have yet to register with their LDC will need to identify themselves to their LDC in order to receive the benefit.

The Ministry of Energy, in collaboration with the Chiefs of Ontario (COO), has crafted the policy in a manner which best reflects the needs and wishes of Ontario's many varied indigenous communities. COO has also developed a Communiqué to send out to all First Nation Chiefs to encourage them to make sure their members are receiving the HST exemption from their LDC. COO will finalize the Communiqué and release in June.

Roles and Responsibilities

Rural or Remote Rate Protection

The roles and responsibilities of the OEB remains the same in terms of administering the legacy RRRP program. ENERGY will now be responsible for appropriating the funds from the legislature on an annual basis to cover the costs faced by those consumers or classes of consumers prescribed under regulation (namely Hydro One R2 customers).

Enhanced RRRP or Distribution Rate Protection

The OEB would be empowered, by regulation, to set the maximum monthly base distribution charge, based on prescribed criteria.

ENERGY would be responsible for appropriating money from the legislature to cover the costs of administering the program.

On-Reserve First Nations Delivery Credit

ENERGY would be responsible for appropriating the money from the legislature to cover the costs of administering the credit to on-reserve customers.

4.0 BACKGROUND

Legislation to Implement Ontario's Fair Hydro Plan

On May 11, 2017, the government introduced Bill 132, *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 *Ontario Energy Board Act, 1998.*

On May 31, 2017, the Bill passed third reading and received Royal Assent on June 1, 2017.

Legislation to Implement GA Refinancing

To enable implementation of GA refinancing and mitigate financing, accounting and legal risks, the *Ontario Fair Hydro Plan Act, 2017* outlines:

- Roles and responsibilities for the OEB, IESO, OPG and the Province;

- A detailed Preamble, Purpose and Definitions;

- Details with respect to Fair Adjustment, Clean Energy Adjustment, Implementation (i.e., Financial Services Manager, Fair Allocation Amount, Financing Plan), Regulatory Asset and Investment Asset;

- Scope of provincial undertaking and enabling the Province to provide guarantees and indemnities to back stop that undertaking; and

- Amendments to other acts (i.e., *Electricity Act* and *Ontario Energy Board)*.

The legislation defines the mechanisms and framework that would achieve the refinancing of the GA.

The Ministry has worked closely with key ministries (i.e., TBS-OPCD, MOF-OFA/IGS, MAG, CO), OEB, IESO, OPG and their independent advisors and third party financing in the development of the legislation.

To support the implementation of GA refinancing under the *Fair Hydro Act, 2017*, the Ministry has developed supporting regulations:

- Ontario Regulation made Under Part II of the *Fair Hydro Act, 2017* ("the Part II Reg.") – sets out in detail the methodology that the Ontario Energy Board will use to make determinations under the *OFHPA*.

- Amendment to O. Reg. 280/14 to be made under the *Electricity Act, 1998* ("IESO Eligible Investments and Borrowing Reg.") – provides IESO with the necessary authority related to its OFHPA activities including the funding, borrowing and financial arrangements contemplated under the *OFHPA*.

- Ontario Regulation to be made under the *Fair Hydro Act, 2017* ("the General Reg.") – will provide for the implementation of the roles and responsibilities of the Financial Services Manager and IESO in relation to the refinancing of GA. Note: The General Reg. will be brought forward to LRC/Cabinet on June 27, 2017.

<u>Social Programs</u>

Rural or Remote Rate Protection (RRRP)

Part of the program helps fund the costs of Hydro One customers classified into the "R2" residential rate class. There are approximately 330,000 R2 customers across the Province. These customers have some of the highest distribution costs in the Province.

- From 2001-2016 the program provided $125.4 million annually to help defray these costs.

- In the 2016 Speech from the Throne, this funding was expanded by $116.4 million to a total of $241.6 million.

- As of Jan 2017 R2 customers receive $60.50/month off their distribution costs.

- These customers still have high distribution costs and are often faced with significantly higher than average bills.

The higher than average consumption patterns coupled with higher than average distribution rates has resulted in monthly bills many view as no longer affordable or equitable.

RRRP is currently funded by rate-payers. All IESO-grid connected consumers pay a charge of $0.0021 per kilowatt-hour to off-set the costs of delivering RRRP. For an average residential customer this amounts to ~$1.60 per month. This charge will be substantially reduced once the R2 portion of the RRRP program is funded through the tax-base, rather than rate payers.

Distribution Rate Protection (DRP)

RRRP is targeted to customers based on geographic and density-based criteria. Many customers, including those in rural areas, face higher than average distribution costs, but are not eligible to receive rate protection under RRRP.

Legislative amendments under the Fair Hydro Act broaden rate protection by creating a new distribution rate protection program to complement the Rural or Remote Electricity Rate Protection program.

Distribution rate protection would be extended to eligible residential customers served by LDCs with the highest distribution costs. Roughly 800,000 customers would receive benefits from the broadened rate protection.

- Providing distribution rate protection to a broader number of consumers would help mitigate geographic-based differences in rates for the consumers who are most impacted and often see such differences as inequitable.

Mitigation for all electricity consumers would be provided by moving the majority of the existing RRRP program costs to the tax-base and funding all of the broadened distribution rate protection enhancements from the tax-base.

On-Reserve First Nations Delivery Credit

On-Reserve First Nations customers experience challenges with energy affordability and are seeking to address historical grievances associated with electricity system infrastructure.

ENERGY has a number of Bilateral Tables with the Chiefs of Ontario (COO) and First Nations that include the Energy Table to discuss policy issues, the Hydro One Negotiating Table to discuss Hydro One shares, and the Grievance Table.

The Grievance Table process was established at the request of COO as a means to avoid litigation to resolve historic grievances related to the energy sector and prevent these issues from impeding progress on broadening the ownership of Hydro One (H1).

The cost of electricity and delivery charges were identified as the prevailing grievance at the First Nations-Ontario Energy Table meeting in Timmins in 2016, and the Minister of Energy agreed to explore options for a First Nations Rate through the Grievance Table process.

5.0 TIMING

Under the *OFHPA*, a portion of the GA will 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).

On April 20, 2017, OEB announced that it adjusted the RPP rates effective May 1, 2017 to account for its estimation of the impact of a portion of GA Refinancing.

If the regulation is approved, the OEB intends to release new RPP rates effective July 1, 2017 that will include the full impact of OFHP as determined under the Part II adjustments.

The OEB must make a determination of RPP rates no later than 15 days from June 2nd, 2017, when the legislation received Royal Assent. As stipulated in the Act, these RPP rates would come into effect as of July 1, 2017.

For consumers eligible for GA refinancing that are not on the RPP, adjustments would be made on their electricity consumption from July 1, 2017 onwards as necessary.

6.0 FINANCIAL IMPACT

1) GA Refinancing:

The Part II regulation lays out the methodology for the OEB to calculate electricity rates for consumers eligible for GA refinancing. As such it has not financial impact.

2) Social Programs:

As reported in the TB/MBC submission of May 9, 2017 and as approved in the TB/MBC submission of March 1, 2017 and confirmed in Vote-Item 2905-1, the financial impacts of the social programs for the period July 1 2017- March 31 2018 are as follows:

Program	2017-18 Budget
Rural or Remote Rate Protection / Distribution Rate Protection	344,000,000
On-Reserve First Nations Delivery Credit	15,000,000

The cost forecasts for these programs were made through a combination of Ministry analysis that utilized consumption data and local distribution company rates to estimate program costs, and information provided to the

Ministry by the Ontario Energy Board. Cost forecasts are subject to some uncertainty surrounding consumer uptake, future consumption levels, and future rates as set by the OEB.

Subsequent to the development of the above financial impacts for RRRP/DRP, Hydro One Networks Inc. submitted a distribution rate application to the OEB for rates effective 2018-2022. ENERGY is currently assessing the potential impact of the Hydro One rate application and will report back to TB/MBC with the potential out-year impacts of this rate application. Note that final Hydro One rates are not expected until 2018, as the application is subject the OEB's rate setting process and the review is expected to take at least 8 months.

Per the Regulations, the Ministry has the authority to request social program costs forecasts from the OEB.

7.0 STAKEHOLDER ANALYSIS

Stakeholder	Comments
Eligible Electricity Consumers	• As a result of OFHP, eligible electricity consumers will welcome the immediate reduction in electricity bills that they will experience in the short to medium term.
Electricity Agencies	• In the development of legislation to enable implementation of OFHP, the Ministry has been working closely with OEB, IESO and OPG and their independent advisors.
Local Distribution Companies (LDCs)	• The Ministry hosted LDC workshop sessions on March 16, April 19, and May 17, 2017. Nearly 40 LDC representatives attended in person or by phone and were briefed on OFHP, including implementation. The Ministry has also held separate engagements with LDCs in particular to the social programs.
Chief of Ontario (COO)	• COO have publicly supported the introduction of the First Nations Delivery Credit. • ENERGY met with COO on April 26, May 23, and June 1 to discuss implementation.

8.0 RISK ASSESSMENT AND MITIGATION – UPDATES

Risk	Likelihood (L/M/H)	Impact (L/M/H)	Mitigation Strategy
1) Global Adjustment (GA) Refinancing			
Maintaining OPG's Financial Viability / Capital Structure	L	H	• OPG requires equity injections on an on-going basis from the Province (i.e.,

Risk	Likelihood (L/M/H)	Impact (L/M/H)	Mitigation Strategy
			Ministry of Energy). • Equity injections are necessary to support OPG as the owner and manager of GA refinancing. The equity injections allow OPG to strengthen the capital structure of the Trust in order to secure financing at a reasonable cost. • In order to provide financing, OPG would develop a special purpose vehicle (SPV). • OPG has a great deal of experience managing the risks associated with borrowing through its experience developing capital-intensive generation projects as well as their management of Nuclear Funds. • OPG will seek to achieve the highest possible credit rating (i.e., AAA is possible) in order to reduce borrowing costs and attract a wide investor base. **<u>Update:</u>** • In April 2017, the Ministry of Energy received approval for the creation of an operating asset "OPG Share Purchase" and an increase in operating asset allocation for $1.1 billion. • This approval was dependent on the passing of the legislation (i.e., the *OFHPA* that received Royal assent on June 1, 2017). • Work is ongoing to finalize a draft term sheet that would serve as the basis for the Master Subscription Agreement between OPG/ENERGY and OFA. In addition, OFA and ENE to develop Service Level Agreement for monthly cash management services.
OPG Securing Capital Markets Funding	L	H	• OPG will need to obtain a portion of the required funding from the capital markets. • The Ministry, IESO, OPG and other ministries have worked closely with third-party financial advisors in advance of and throughout the drafting process to help to ensure that the legislation enables refinancing of the GA.

Risk	Likelihood (L/M/H)	Impact (L/M/H)	Mitigation Strategy
			• In order to provide financing, OPG would develop a special purpose vehicle (SPV) which will use 100% debt financing to purchase the regulatory asset, financing 51% through capital markets as senior debt, with the remaining 49% being provided by OPG as subordinated debt. • The 49% subordinated debt from OPG will be financed through debt OPG issues in its own capacity, through capital markets (up to 5%) with the remainder (44-49%) financed through equity injections from the Province. This will help to ensure OPG's capital structure remains in line. **Update:** • The legislation was developed with input from third-party financiers (i.e., dealers) to ensure that the *OFHPA* enables the refinancing of the Global Adjustment (GA). • OPG is continuing to work through the mechanics of securing financing (e.g., engaging rate agencies, etc). • In addition, in order to provide assurances to those with claims against the "Financing Entity" (e.g., holders of debt) and support credit ratings, the Province is providing both a Service Guarantee and a Performance Guarantee to ensure that the obligations of IESO are carried out including obligations related to collecting and remitting clean energy adjustments. Working is ongoing.
Managing Interest Cost Risks	M	H	• OPG's Special Purpose Vehicle (SPV) / Trust is borrowing in its own corporate capacity from the capital markets. • Risk that it may incur a higher interest cost than what was originally forecast (i.e., 5%). **Update:** • The legislation was developed with input of third-party financiers (i.e., dealers) to

Risk	Likelihood (L/M/H)	Impact (L/M/H)	Mitigation Strategy
			ensure that the OFHPA enables the refinancing of the GA • The provincial guarantee as set out in legislation should provide comfort to dealers, thereby increasing the likelihood of achieving more favourable interest rates. • Work is ongoing to finalize the scope of the provincial guarantees. Note: The guarantees are required to support rating agency review which is expected by the end of July.
Provincial Guarantee is Triggered	L	H	• The legislation sets out that the province could provide assurances in the form of a "provincial guarantee" to OPG and investors regarding the permanence of the GA Refinancing framework. The intent is to ensure that the full value is recovered. • The legislation also enables the Province to: o Through the Ministers of Energy and Finance upon approval by Lieutenant Governor in Council, agree to guarantee any debts and obligations; and **<u>Update:</u>** • Work is ongoing to finalize the scope of the provincial guarantees. Note: The guarantees are required to support rating agency review which is expected by the end of July.
IESO Failure to Establish a Regulatory Asset / Maintaining IESO Financial Viability	L	H	• Under the legislation, the Ontario Energy Board (OEB) is providing the necessary oversight required to enable IESO the ability to establish a Regulatory Asset. • To recover its revenue shortfall, IESO will establish as a Regulatory Asset that it would sell to OPG's SPV / Trust. • The OEB will issue an accounting order to authorize IESO to create a variance account in which it will record the funding shortfall and recover the shortfall in accordance with the legislation and

Risk	Likelihood (L/M/H)	Impact (L/M/H)	Mitigation Strategy
			regulations. • IESO requires short-term financing to be in place for initial and expected monthly timing differences, or in the event that the OPG SPV, at any time, does not purchase a portion of the regulatory asset. **Update:** • IESO has received an accounting opinion from KPMG that concurs with IESO's view that it has the ability to establish the regulatory asset. • In addition, OFA is planning to increase IESO's credit facility to support its role in implementing the OFHPA. OFA is proposing an OIC that would authorize the OFA to borrow an additional $2.0 billion, which would be in addition to existing authority for the Minister of Finance to provide loans to the OFA, to ensure that there is sufficient borrowing authority in place for the OFA to meet the IESO requested requirements.
GA Refinancing Approach is Viewed as an Indirect-tax	L	H	• The legislation to enable GA refinancing the costs associated with electricity generation facilities will be allocated across present and future electricity consumers will be set out in the Fair Allocation Amount. • In principle, refinancing the GA to spread the costs of generation and conservation assets over the useful life of the assets presents only a "low" risk of being an unconstitutional tax, as each cohort of consumers pays for a proportion of the GA cost roughly equal to the proportion of the benefit they receive from the useful life of the assets. • Legal risk arises if it becomes apparent that the Government is not spreading cost so that it is shared proportionately by future consumers who cause a need for or benefit from the generation asset, but rather is doing so in order to lower the price in the "short" term by increasing

Risk	Likelihood (L/M/H)	Impact (L/M/H)	Mitigation Strategy
			the price in the long term. If the proposed financing served to encumber future consumers with a premium payment to cover the GA financing in order to subsidize current ratepayers, then there would be a moderately high constitutional risk that the financing proposal would result in an unconstitutional tax. • The legislation attempts to mitigate the risks identified above by requiring that the costs moved into the future align with the benefits that future rate payers will receive. To create the flexibility to achieve this requirement, the amounts of the costs and benefits will not be enshrined in the legislation. **Update:** • The legislation was designed to limit this risk. • The Fair Allocation Amount will help to ensure that the allocation of costs associated with electricity generation facilities is reflected over the term of GA Refinancing.
2) Social Programs			
Social Program Implementation Delays	L	M	• Work with LDCs; provide transitional provisions. • Work with Chiefs of Ontario (COO) to develop a plan to identify eligible on-reserve customers. • The bill includes transitional provisions that would ensure customers remain eligible for the rate protection and First Nations Delivery Credit from the prescribed date. **Update:** • The Ministry convened multiple working groups on the social programs, attended by all impacted LDCs. No LDC has raised issue with providing the programs by July 1st.

Risk	Likelihood (L/M/H)	Impact (L/M/H)	Mitigation Strategy
			• The Ministry continues to work with COO and affected LDCs to reach out to unidentified First Nations Delivery Credit eligible customers. This includes development of a communications postcard in the near term, to be followed by more targeted outreach.
Social Program Cost Estimating	M	M	• Distribution Rate Protection costs are driven by a number of variable factors including: the OEB's rate setting process; the lowest cost distributor in the prescribed cohort of "high cost distributors" and consumption patterns. • Work with Ontario Energy Board (OEB) and the Independent Electricity System Operator (IESO) to ensure access to data for regular forecasting. • A mechanism would be created in regulation to ensure that all parties are aligned in the yearly forecasting and costing of the program. **Update:** • Hydro One's cost-of-service application for 2018-2022 distribution rates is currently before the OEB. This application will affect the out year cost projections for Distribution Rate Protection. The Ministry is monitoring this application and will report back as the OEB review continues. • Social program regulations include provisions to require the IESO and the OEB to provide the Ministry with information required to update cost projections based on up-to-date figures.
Non-Status Indigenous communities without reserves or Metis could raise a Charter challenge on the First Nations On-Reserve Delivery Credit Program	L	L	• This risk is mitigated by the ameliorative purpose of the program and because targeting First Nations communities for a reserve-based program corresponds to the distinct circumstances of reserve-based communities, relative to other Indigenous communities. A genuinely ameliorative program that targets some people but excludes others is shielded from a section 15 challenge if it serves

Risk	Likelihood (L/M/H)	Impact (L/M/H)	Mitigation Strategy
			or advances the ameliorative goal as per section 15(2) of the Charter. **Update:** • This mitigation remains in place. The Ministry has received support letters from the Chiefs of Ontario approving the approach to restrict FNDC to on-reserve.

9.0 JURISDICTIONAL ANALYSIS

GA Refinancing approached outlined in the legislation is modelled on frameworks used in the United States (e.g., Duke Energy), where utility debt is financed by selling it to investors with recovery from ratepayers over time.

The Ministry conducted no jurisdictional analysis related to the expansion of social program funding as the structure of Ontario's electricity sector, and thus the delivery of these benefits, is unique.

10.0 PERFORMANCE MEASURES

The proposed new regulation under *OFHPA* outlines the methodology that the OEB will use in applying *OFHPA* reductions to eligible consumers who participate in the OEB's Regulated Rate Plan (RPP) and non-regulated consumers who are eligible for GA refinancing under *OFHPA*.

The proposed amendments to O. Reg. 280/10 would provide the Independent Electricity System Operator (IESO) with the necessary authority related to its OFHPA activities, including the funding, borrowing and financial arrangements contemplated under the OFHPA

With respect to the social programs, performance will be evaluated by the amount of funding flowed to consumers in order to reduce their electricity bills. This is the primary success metric for these programs. In future report backs, the Ministry will include the presentation of data collected through the IESO reporting portals to demonstrate the impact of these programs on customers. The Ministry will work with the OEB over the coming years to ensure that data is available to determine if the programs continue to provide meaningful rate relief.

The Ministry and the OEB have engaged with the Behavioral Insights Office at the TBS to consider ways to increase program participation. Discussions are ongoing. Energy is also working with the Ministry of Community and Social

Services on expanding program participation. Regulatory amendments needed to implement those policy objectives will be brought forward to the next LRC.

Ontario's Fair Hydro Plan also included a commitment to work with the OEB to drive distribution sector efficiencies within LDCs over the long-term. The Ministry is developing its policy approach to achieving these efficiencies, including potentially through LDC consolidation, through the Long-Term Energy Planning process.

12.0 RECOMMENDATION

1) The Ministry of Energy is reporting back to the Treasury Board/Management Board of Cabinet (TB/MBC) on the following:

   i. Implementation of Global Adjustment (GA) Refinancing; and

   ii. Delivery of Electricity Social Programs (i.e., Rural or Remote Rate Protection, and First Nations On-Reserve Delivery Credit).