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Government Motion

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M _____

Schedule 1 to the Bill, section 7 of the *Ontario Fair Hydro Plan Act, 2017*

I move that section 7 of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be struck out and the following substituted:

Regulated rate consumers, first adjustments

7. (1) Despite clause 79.16 (1) (b) of the *Ontario Energy Board Act, 1998*, the electricity rates payable by regulated rate consumers for the period beginning on July 1, 2017 and ending on April 30, 2018 are the rates determined by the Board under this section and in accordance with the regulations.

Determination by Board

(2) The rates mentioned in subsection (1) shall be the rates that would result in a hypothetical regulated rate consumer who meets the prescribed criteria being invoiced a total invoice amount, consisting of such types of amounts as may be prescribed, that is 25 per cent less than a different total invoice amount, consisting of such types of amounts as may be prescribed, that the consumer would have been invoiced under the comparison rates described in subsection (3).

Comparison rates

(3) The comparison rates are the rates that would have been effective May 1, 2017 if they had been determined by the Board for the consumer mentioned in subsection (2) using the method prescribed by the regulations made under clause 79.16 (1) (b) of the *Ontario Energy Board Act, 1998*, without taking into account any forecasted impact of any other provisions of this Act.

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Schedule 1 to the Bill, section 8 of the *Ontario Fair Hydro Plan Act, 2017*

I move that section 8 of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be struck out and the following substituted:

Other specified consumers, first adjustments

8. (1) For the period beginning on July 1, 2017 and ending on April 30, 2018, the adjustments made under section 25.33 of the *Electricity Act, 1998* shall, with respect to specified consumers who are not regulated rate consumers, be further adjusted by electricity vendors in accordance with the regulations and in accordance with the determinations made by the Board in accordance with the regulations.

Regulations

(2) The regulations may specify different adjustments, or methods of determining the adjustments, to be made in respect of prescribed classes of specified consumers who are not regulated rate consumers.

Bill 132

**An Act to enact the Ontario Fair Hydro Plan Act, 2017
and to make amendments to the Electricity Act, 1998
and the Ontario Energy Board Act, 1998**

Motion to be moved in Committee

M _____

Schedule 1 to the Bill, subsection 10 (1.1) of the *Ontario Fair Hydro Plan Act, 2017*

I move that section 10 of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by adding the following subsection:

Information and materials included on, with invoices require approval of Auditor General

(1.1) Information or materials directed by the Minister or the Board to be included by electricity vendors on or with invoices shall not be included unless approved by the Auditor General.

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Schedule 1 to the Bill, section 11 of the *Ontario Fair Hydro Plan Act, 2017*

I move that section 11 of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be struck out and the following substituted:

Subsequent adjustments

11. (1) Despite clause 79.16 (1) (b) of the *Ontario Energy Board Act, 1998* and subject to subsection (2), the Lieutenant Governor in Council may prescribe methodologies to be applied by the Board after April 30, 2018 for the purpose of determining,

- (a) electricity rates for regulated rate consumers; or
- (b) further adjustments to be applied by electricity vendors, in accordance with the regulations and in accordance with the Board's determinations, to the adjustments made under section 25.33 of the *Electricity Act, 1998* in respect of specified consumers who are not regulated rate consumers.

Regulations

(2) The Lieutenant Governor in Council shall have regard to the following in making the regulations:

1. The purposes of this Act.
2. The clean energy costs borne by specified consumers over time.
3. Such other matters as may be prescribed.

Same

(3) The regulations may prescribe,

- (a) different methodologies for different prescribed classes of specified consumers and in respect of different periods of time; and
- (b) different adjustments to be applied in respect of prescribed classes of specified consumers who are not regulated rate consumers and in respect of different periods of time.

5

Government Motion

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Schedule 1 to the Bill, subsections 12 (2) and (3) of the *Ontario Fair Hydro Plan Act, 2017*

I move that subsection 12 (2) of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be struck out and the following substituted:

Same

(2) If an invoice for the electricity is issued to the person by the specified consumer or a unit sub-meter provider providing unit sub-metering for the specified consumer, the amounts or rates payable for the electricity by the person who is liable to pay the invoice shall be determined in accordance with the regulations.

Same

(3) The regulations may prescribe different amounts or rates or different methods for determining amounts or rates for different prescribed classes of specified consumers.

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Schedule 1 to the Bill, subsection 13 (2) of the *Ontario Fair Hydro Plan Act, 2017*

I move that subsection 13 (2) of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be struck out and the following substituted:

Same

(2) For greater certainty, subsection (1) applies regardless of whether any estimate, projection or other input used in calculating the clean energy adjustment was erroneous or out of date at the time of the calculation and regardless of whether any of those estimates, projections or other inputs is subsequently amended, updated or corrected.

7

PC Motion
v.2

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

M _____

Schedule 1 to the Bill, subsection 15 (3) of the *Ontario Fair Hydro Plan Act, 2017*

I move that subsection 15 (3) of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be struck out and the following substituted:

Financial Services Manager to notify Auditor General and Board

- (3) The Financial Services Manager shall, in accordance with the regulations,
- (a) notify the Auditor General of the clean energy adjustment determined under subsection (1) in respect of a reference period and such other information related to the determination of the clean energy adjustment as may be prescribed; and
 - (b) if the Auditor General approves the determination, notify the Board of the clean energy adjustment in respect of the reference period and such other information related to the determination of the clean energy adjustment as may be prescribed.

8

NDP Motion

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

M_____

Schedule 1, subsection 15 (3.1) (*Ontario Fair Hydro Plan Act, 2017*)

I move that section 15 of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by adding the following subsection:

Publication of certain information

(3.1) Before notifying the Board of a clean energy adjustment in respect of a reference period, the Financial Services Manager shall publish such information or updates to previously-published information as would permit the calculation of a projection of the cumulative impact of the implementation of this Act on electricity invoice amounts for the period beginning on November 1, 2017 and ending on April 30, 2047.

9

NDP Motion

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

M_____

Schedule 1, subsections 15 (3.2) and (3.3) (*Ontario Fair Hydro Plan Act, 2017*)

I move that section 15 of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by adding the following subsections:

Clean energy adjustment subject to Board approval

(3.2) A clean energy adjustment determined by the Financial Services Manager in respect of a reference period is subject to the Board's approval.

Same

(3.3) The Board shall not approve a clean energy adjustment in respect of a reference period unless it determines that to do so is in the interest of consumers, within the meaning of the *Electricity Act, 1998*, with respect to the price of electricity service.

10

NDP Motion

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

M_____

Schedule 1, subsection 15 (3.4) (*Ontario Fair Hydro Plan Act, 2017*)

I move that section 15 of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by adding the following subsection:

Cap on clean energy adjustment

(3.4) If the Board determines that the clean energy adjustment in respect of a reference period is greater than it would have been for that period had the funding obligations been incurred under subsection 66 (2) of the *Electricity Act, 1998* by the Financial Corporation and not under this Act, then the clean energy adjustment for that period shall be reduced by the difference between them.

(11)

NDP Motion

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

M_____

Schedule 1, subsection 15 (4) (*Ontario Fair Hydro Plan Act, 2017*)

I move that subsection 15 (4) of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by striking out "Without changing the clean energy adjustment, the Board shall" at the beginning and substituting "The Board shall".

12

NDP Motion

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

M_____

Schedule 1, subsection 15 (5) (*Ontario Fair Hydro Plan Act, 2017*)

I move that section 15 of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by adding the following subsection:

Same

(5) In determining rates under subsection (4), the Board shall have regard to the interest of consumers, within the meaning of the *Electricity Act, 1998*, with respect to the price of electricity service.

13

NDP Motion

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

M_____

Schedule 1, subsection 15 (6) (*Ontario Fair Hydro Plan Act, 2017*)

I move that section 15 of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by adding the following subsection:

Comparison

(6) At least 30 days before the Board determines rates under subsection (4) in respect of a reference period, the Minister, or a public entity designated by the Minister for the purpose, shall publish a comparison for each year in the period beginning on November 1, 2017 and ending on April 30, 2047 between,

- (a) the rates at which specified consumers were invoiced and are projected to be invoiced for electricity as a result of the implementation of this Act; and
- (b) the estimated rates at which specified consumers would have been invoiced but for the implementation of this Act.

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Schedule 1 to the Bill, section 18 of the *Ontario Fair Hydro Plan Act, 2017*

I move that section 18 of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be struck out and the following substituted:

Appointment

18. Ontario Power Generation Inc. is appointed as the Financial Services Manager for the purposes of this Act, unless it is unable or unwilling to do so, in which case the Minister may appoint a different Financial Services Manager in accordance with the regulations.

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

M_____

Schedule 1, subsection 19 (5) (*Ontario Fair Hydro Plan Act, 2017*)

I move that section 19 of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by adding the following subsection:

Same

(5) The Board shall not approve a fee under subsection (4) unless it determines that to do so is in the interest of consumers, within the meaning of the *Electricity Act, 1998*, with respect to the price of electricity service.

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

M_____

Schedule 1, section 19.1 (*Ontario Fair Hydro Plan Act, 2017*)

I move that the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by adding the following section before the heading "Fair Allocation Amount":

Auditor General

19.1 The Financial Services Manager is subject to the authority of the Auditor General under the *Auditor General Act*, regardless of the person or entity appointed for the purpose.

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

M _____

Schedule 1, section 19.2 (*Ontario Fair Hydro Plan Act, 2017*)

I move that the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by adding the following section before the heading "Fair Allocation Amount":

Financial Accountability Officer

19.2 The Financial Services Manager is a public entity for the purposes of the *Financial Accountability Officer Act, 2013*, regardless of the person or entity appointed for the purpose.

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

M_____

Schedule 1, section 19.3 (*Ontario Fair Hydro Plan Act, 2017*)

I move that the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by adding the following section before the heading "Fair Allocation Amount":

Freedom of Information and Protection of Privacy Act

19.3 Regardless of the person or entity appointed for the purpose, the Financial Services Manager is an institution for the purposes of the *Freedom of Information and Protection of Privacy Act*, and its most senior officer is the head of the institution under that Act.

Bill 132**An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998****Motion to be moved in Committee**

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Schedule 1 to the Bill, section 20 of the *Ontario Fair Hydro Plan Act, 2017*

I move that section 20 of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be struck out and the following substituted:

Minister to calculate fair allocation amount

20. (1) Before the first funding obligation is incurred, the Minister shall calculate a fair allocation amount in respect of each reference period as follows:

1. Determine, in accordance with the following steps and the regulations and by applying such method as the Minister considers appropriate, the estimated clean energy costs to be allocated to specified consumers in respect of the reference period:
 - i. Determine the clean energy costs incurred or expected to be incurred in respect of all reference periods.
 - ii. Determine the clean energy benefits in respect of,
 - A. all reference periods, and
 - B. the prescribed period of time that preceded the first reference period and during which clean energy costs were incurred.
 - iii. Attribute the value of the clean energy benefits determined under subparagraph ii across the reference periods and the period of time described in sub-subparagraph ii B.

- iv. Allocate clean energy costs determined under subparagraph i in proportion to the relative attributions of clean energy benefits determined in subparagraph ii in respect of the reference periods.
2. Subject to subsection (2), determine, in accordance with the regulations and by applying such method as the Minister considers appropriate, the estimated financing costs, consisting of such types of costs as may be prescribed, in respect of the reference period.
3. Determine, in accordance with the regulations and by applying such method as the Minister considers appropriate, the estimated clean energy costs that would have been payable, in the absence of this Act, by specified consumers in respect of the reference period.
4. Determine the amount, if any, by which the sum of the determinations under paragraphs 1 and 2 exceeds the determination under paragraph 3.
5. Calculate the sum of the amount determined under paragraph 4 and such other amounts as may be prescribed in respect of the reference period.

Part II adjustments

(2) If the Board has made a determination under section 9 or 11 in respect of the reference period or in respect of a prior reference period and, as a result of the determination, the prescribed circumstances arise, the Minister shall take the prescribed steps to make the prescribed adjustments to the determination made under paragraph 2 of subsection (1).

Minister's considerations

(3) In calculating a fair allocation amount, the Minister shall have regard to the purposes of this Act and such other matters as may be prescribed.

Minister to inform Financial Services Manager

(4) The Minister shall provide the fair allocation amount in respect of each reference period to the Financial Services Manager.

Recalculation

(5) The calculation of a fair allocation amount under this Part may be changed by such person as may be prescribed, subject to the following requirements:

1. The prescribed person shall comply with such requirements as may be prescribed.

2. Subsections (1), (2) and (3) apply to the new calculation, with necessary modifications, as if that person were the Minister.

Same

(6) No change under subsection (5) shall affect any clean energy adjustment that arises as a result of a funding obligation that has been incurred before the change.

Information

(7) The Minister, the IESO, the Financial Services Manager, the Board and electricity vendors shall provide such information as may be prescribed in accordance with the regulations for the purposes of facilitating a change under subsection (5).

20

PC Motion
v.2

Bill 132

**An Act to enact the Ontario Fair Hydro Plan Act, 2017
and to make amendments to the Electricity Act, 1998
and the Ontario Energy Board Act, 1998**

Motion to be moved in Committee

M_____

Schedule 1 to the Bill, subsection 20 (5) of the *Ontario Fair Hydro Plan Act, 2017*

I move that subsection 20 (5) of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be struck out and the following substituted:

Recalculation

(5) A calculation of the fair allocation amount under this Part may be changed by the Auditor General or by such person as may be prescribed, in accordance with such requirements as may be prescribed.

21

PC Motion
v.2

Bill 132

**An Act to enact the Ontario Fair Hydro Plan Act, 2017
and to make amendments to the Electricity Act, 1998
and the Ontario Energy Board Act, 1998**

Motion to be moved in Committee

M_____

Schedule 1 to the Bill, subsection 20 (7) of the *Ontario Fair Hydro Plan Act, 2017*

I move that subsection 20 (7) of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be struck out and the following substituted:

Information

(7) The Minister, the IESO, the Financial Services Manager, the Board and electricity vendors shall provide such information as may be prescribed to each other, the Auditor General and other persons as may be prescribed, in accordance with the regulations for the purposes of facilitating a change to a calculation of the fair allocation amount.

Bill 132**An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998****Motion to be moved in Committee**

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Schedule 1 to the Bill, subsection 21 (1) of the *Ontario Fair Hydro Plan Act, 2017*

I move that subsection 21 (1) of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by striking out “for the purposes of acquiring and financing an investment asset” and substituting “for the purposes of a financing entity acquiring and financing an investment interest”.

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Schedule 1 to the Bill, paragraph 1 of subsection 21 (3) of the *Ontario Fair Hydro Plan Act, 2017*

I move that paragraph 1 of subsection 21 (3) of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by striking out “to reflect determinations of the Board under Part II in respect of the reference period” at the end and substituting “by the readjustment amount, if any, in respect of the reference period”.

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998**Motion to be moved in Committee**

(On peut obtenir la version française de cette motion auprès du greffier.)

M. _____

Schedule 1 to the Bill, clauses 21 (4) (a) and (b) of the *Ontario Fair Hydro Plan Act, 2017*

I move that clauses 21 (4) (a) and (b) of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be struck out and the following substituted:

- (a) the amounts are payable in respect of a reference period in respect of which there is no readjustment amount; or
- (b) if there is a readjustment amount in respect of the reference period, the amounts payable in respect of the clean energy adjustment in respect of the reference period do not exceed the fair allocation amount in respect of the reference period after subtracting the readjustment amount.

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

M_____

Schedule 1, subsections 21 (4.1) and (4.2) (*Ontario Fair Hydro Plan Act, 2017*)

I move that section 21 of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by adding the following subsections:

Financing Plan subject to Board approval

(4.1) The Financing Plan is subject to the Board's approval.

Same

(4.2) The Board shall not approve the Financing Plan unless it determines that to do so is in the interest of consumers, within the meaning of the *Electricity Act, 1998*, with respect to the price of electricity service.

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

M_____

Schedule 1, subsection 21 (5.1) (*Ontario Fair Hydro Plan Act, 2017*)

I move that section 21 of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by adding the following subsection:

Plan to be published

(5.1) The Financial Services Manager shall publish the Financing Plan at least 30 days before the incurrence of any funding obligations in respect of that plan.

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M _____

Schedule 1 to the Bill, subsection 21 (6) of the *Ontario Fair Hydro Plan Act, 2017*

I move that subsection 21 (6) of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by adding “but no such amendment shall affect any clean energy adjustment that has already been determined under section 15 or any funding obligations that have already been incurred before the amendment” at the end.

Bill 132**An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998****Motion to be moved in Committee**

(On peut obtenir la version française de cette motion auprès du greffier.)

M _____

Schedule 1 to the Bill, subsection 21 (8) of the *Ontario Fair Hydro Plan Act, 2017*

I move that section 21 of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by adding the following subsection:

Readjustment amount

(8) In this section,

“readjustment amount” has the meaning set out in the regulations.

Bill 132**An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998****Motion to be moved in Committee**

(On peut obtenir la version française de cette motion auprès du greffier.)

M _____

Schedule 1 to the Bill, subsection 22 (3) of the *Ontario Fair Hydro Plan Act, 2017*

I move that subsection 22 (3) of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by striking out “The Financial Services Manager shall not” at the beginning and substituting “Neither the Financial Services Manager nor a financing entity shall”.

30

NDP Motion

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

M_____

Schedule 1, section 22.1 (*Ontario Fair Hydro Plan Act, 2017*)

I move that the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by adding the following section before the heading to Part V:

Auditor General

22.1 Every financing entity is subject to the authority of the Auditor General under the *Auditor General Act*, regardless of whether the entity is a subsidiary of the Financial Services Manager.

31

NDP Motion

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

M_____

Schedule 1, section 22.2 (*Ontario Fair Hydro Plan Act, 2017*)

I move that the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by adding the following section before the heading to Part V:

Financial Accountability Officer

22.2 Every financing entity is subject to the authority of the Financial Accountability Officer under the *Financial Accountability Officer Act, 2013*, regardless of whether the entity is a subsidiary of Financial Services Manager.

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

M_____

Schedule 1, section 22.3 (*Ontario Fair Hydro Plan Act, 2017*)

I move that the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by adding the following section before the heading to Part V:

Freedom of Information and Protection of Privacy Act

22.3 Every financing entity is an institution for the purposes of the *Freedom of Information and Protection of Privacy Act*, and its most senior officer is the head of the institution under that Act, regardless of whether the entity is a subsidiary of the Financial Services Manager.

33

NDP Motion

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

M _____

Schedule 1, subsections 28 (3) and (4) (*Ontario Fair Hydro Plan Act, 2017*)

I move that section 28 of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by adding the following subsections:

Subject to Board approval

(3) The application of subsections (1) and (2) to a specified portion of the regulatory asset that is transferred under section 26 is subject to the prior approval, obtained by the financing entity, of the Board.

Same

(4) The Board shall not provide approval under subsection (3) unless it determines that to do so is in the interest of consumers, within the meaning of the *Electricity Act, 1998*, with respect to the price of electricity service.

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M _____

Schedule 1 to the Bill, section 40.1 of the *Ontario Fair Hydro Plan Act, 2017*

I move that Schedule 1 to the Bill be amended by adding the following section:

Compliance and restraining orders

Application to court

40.1 (1) On the application of an investment interest owner, the Superior Court of Justice may make an order described in subsection (2) if it is satisfied that an electricity vendor, the IESO or the Financial Services Manager has failed to comply with or has contravened this Act or the regulations or that one of those entities will fail to comply with or will contravene this Act or the regulations.

Order

(2) The Superior Court of Justice may, by order,

- (a) direct the electricity vendor, the IESO or the Financial Services Manager to comply with this Act or the regulations;
- (b) restrain the electricity vendor, the IESO or the Financial Services Manager from contravening this Act or the regulations; or
- (c) require compensation to be provided by the electricity vendor, the IESO or the Financial Services Manager to the investment interest owner.

Same

(3) An application under subsection (1) may be made by an investment interest owner in addition to exercising any other right of the investment interest owner.

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Schedule 1 to the Bill, paragraph 7 of subsection 41 (1) of the *Ontario Fair Hydro Plan Act, 2017*

I move that paragraph 7 of subsection 41 (1) of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by striking out “a breach under section 29” and substituting “the failure of any person or entity to give effect to the rights and interests provided for under section 29”.

36

NDP Motion

Bill 132

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Motion to be moved in Committee

M_____

Schedule 1, subsection 41 (3) (*Ontario Fair Hydro Plan Act, 2017*)

I move that section 41 of the *Ontario Fair Hydro Plan Act, 2017*, as set out in Schedule 1 to the Bill, be amended by adding the following subsection:

Restriction on partisan invoicing information

(3) Paragraphs 4 and 5 of subsection (1) do not authorize regulations permitting, requiring or authorizing a person or entity to permit or require the inclusion of information on or with invoices that is partisan in nature, as determined by the Auditor General.