Ontario

LEGISLATION AND REGULATIONS COMMITTEE: PRELIMINARY REGULATORY IMPACT ASSESSMENT FORM

Date:	
Ministry:	ENERGY
Name of Act:	*Ontario Fair Hydro Plan Act, 2017 (OFHPA),* Schedule 1 of the *Fair Hydro Act, 2017*
Name of Regulation:	Ontario Regulation 206/17

Section 1: Proposal and Context

Supporting Implementation of Ontario's Fair Hydro Plan under the OFHPA

- On May 11, 2017, the government introduced Bill 132, the *Fair Hydro Act, 2017* (FHA) which is comprised of two Schedules:
  - Schedule 1 is the Ontario Fair Hydro Plan Act, 2017 (OFHPA) and related amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998 (OEBA); and
  - Schedule 2 includes the electricity social program-related amendments to the OEBA, 1998.
- On May 31, 2017 the FHA passed third reading and received Royal Assent on June 1, 2017.
- Under the *OFHPA*, a portion of the GA is being 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).
- Under the O*FHPA,* which enables GA Refinancing, electricity bills of a typical residential consumer have been reduced by 25 per cent effective July 1, 2017, compared to what they would have been without the initiatives included in Ontario's Fair Hydro Plan. In addition, Schedule 1 provides the authority under which further increases to electricity bills for a typical consumer are to be held to the rate of inflation. Up to 500,000 small businesses and farms are also benefitting from GA Refinancing.
- Proposed amendments to O.Reg. 206/17 (General) made under the OFHPA are the next step in implementing GA Refinancing. The amendments would, if approved, enable Ontario Power Generation (OPG), as Financial Services Manager (FSM) under the OFHPA, to establish and charge fees for the services it provides in connection with the financings contemplated under the OFHPA.
- Additional proposed amendments to O.Reg. 206/17 included in this package are needed to ensure the implementation of GA Refinancing satisfies accounting requirements regarding the near-term recovery of "carrying costs" (i.e., fees and interest amounts) under the OFHPA.

A. Financial Services Manager (FSM) Fees Review

1. Amending O. Reg. 206/17 made under the OFHPA

- The Ministry of Energy is seeking approval to amend O.Reg. 206/17 made under the OFHPA to enable the implementation of GA Refinancing.

- OPG, as FSM under the OFHPA, plays a key role in obtaining the Financing.

- The proposed new amendments would, if approved, enable OPG to establish and charge fees in its role as FSM. It would also provide the methodology for the calculation of those fees, and would define the role of the Ontario Energy Board (OEB) in reviewing and approving those fees.

B. Recovery of "Carrying Costs"

1. Amending O. Reg. 206/17 made under the OFHPA

- The Ministry of Energy is proposing to amend O. Reg. 206/17 in order to enable the further implementation of Ontario's Fair Hydro Plan under the OFHPA.

- The proposed amendments would, if approved, enable the recovery of amounts related to interest costs and Financial Services Manager fees ("carrying costs") in a manner consistent with accounting requirements of OPG and the Independent Electricity System Operator (IESO).

- While the Ministry of Energy and external stakeholders did consider and develop additional amendments (i.e., to Ontario Regulation 429/04 and 195/17) in order to enable the recovery of carrying costs, external OPG and IESO accounting advisors confirm that the amendments to O. Reg. 429/04 and 195/17 that had been contemplated were not required.

Section 2: Approach and Intended Outcomes

A. FSM Fees Review

1. Amending O. Reg. 206/17 made under the OFHPA

- The Ministry of Energy is seeking approval to amend O.Reg. 206/17 made under the OFHPA to enable the implementation of GA Refinancing.

- OPG, as Financial Services Manager under the OFHPA, plays a key role in obtaining the Financing to support GA Refinancing.

- The proposed new amendments would, if approved, enable OPG to establish and charge fees in its role as FSM. It would also provide the methodology for the calculation of those fees, and would define the role of the Ontario Energy Board (OEB) in reviewing and approving those fees.

- The proposed amendments, if approved, would enable to OPG to go to market in November 2017 as intended. Any timeline is dependent on the completion of a number of related items including the confirmation of fees methodology and review, and recovery of carrying costs (i.e., as set out in the proposed amendments to Ontario Regulation 206/17).

B. Recovery of “Carrying Costs”

1. Amending O. Reg. 206/17 made under the OFHPA

- The Ministry of Energy is proposing to amend O. Reg. 206/17 in order to enable the further implementation of Ontario’s Fair Hydro Plan under the OFHPA.

- For the purposes of further implementing the OFHPA, ENERGY has determined an approach utilizing the General Regulation made under the OFHPA, which would establish the authority for the Independent Electricity System Operator (IESO) to pay amounts related to interest costs and FSM fees (“carrying costs”) and to ensure that these amounts are not to be recovered from specified consumers, defined under the OFHPA, for the period from July 1, 2017 to April 30, 2021 (i.e., “the inflationary cap period”).

- The proposed amendments would enable IESO to record amounts related to carrying costs in the variance account established under the OFHPA, allowing IESO to recover such amounts through their inclusion as part of the regulatory asset to be transferred to the financing entity as set out in the OFHPA.

- The proposed amendments also establish the authority for IESO to grant security to a financing entity, as defined in the OFHPA, for the purpose of meeting its obligation to pay and remit amounts related to FSM carrying costs.

- The amounts would be recovered through the Clean Energy Adjustments (CEAs) on and after May 1, 2021. Note: This was necessary since without a mechanism for recovery of such carrying costs during the so-called moratorium period, GA Refinancing may not be able to proceed as planned under the OFHPA or might significantly increase the costs associated with such refinancing.

- The overall net impact to specified consumers within the inflationary cap period is expected to be zero.

- The proposed amendments, if approved, would enable to OPG to go to market in November 2017 as intended. Any timeline is dependent on the completion of a number of related items including the confirmation of the recovery of fees and carrying costs (i.e., as set out in the proposed amendments to O. Reg. 206/17).

The purpose of Section 3 is to identify stakeholders that will be affected by the regulatory proposal, and briefly describe the anticipated impact (whether a cost or a benefit). These factors will be considered in the determination of whether a full RIA is required.

Section 3: Affected Stakeholders	Yes	No
Individuals (specific groups or consumers)	❑	❑
A. FSM Fees Review **1. Amending O. Reg. 206/17 made under the OFHPA** ***Consumers*** • OFHPA, Schedule 1 of the *Fair Hydro Act*, 2017, has enabled the reduction of electricity bills by 25 per cent for a typical residential consumer as of July 1, 2017, relative to what they would have been without the initiatives that are part of Ontario's Fair Hydro Plan. • The proposed amendments to O. Reg. 206/17 (General) made under the OFHPA is the next step in the ongoing implementation GA Refinancing. ***Agency Impact*** • The OEB would be impacted in terms of the requirements for review of OPG FSM fees set out in the amendments to O. Reg. 206/17, and in terms of the determination of rates that will be applied to specified consumers consistent with the OFHPA and related regulations. • OPG as FSM would be able to proceed with the implementation of GA Refinancing as planned. **B. Recovery of "Carrying Costs"** **1. Amending O. Reg. 206/17 made under the OFHPA** • The OFHPA has enabled the reduction of electricity bills by 25 per cent for a typical residential consumer as of July 1, 2017, relative to what they would have been without the initiatives that are part of Ontario's Fair Hydro Plan. • The proposed amendments to O. Reg. 206/17 made under		

the OFHPA would enable the ongoing implementation of GA Refinancing by establishing a mechanism for the recovery of carrying costs from specified consumers, defined under the OFHPA, for the period the inflationary cap period. • The overall net impact to specified consumers within the inflationary cap period is expected to be zero. ***Agency Impact*** • The proposed amendments to O. Reg. 206/17 would impact IESO, in relation to the amounts related to the financing of the carrying costs and OPG FSM fees that they would not be recovering from consumers and which would form part of the variance account for future collection from specified consumers.		
Businesses	❑	❑
A. FSM Fees Review **1. Amending O. Reg. 206/17 made under the OFHPA** • The OFHPA has enabled the reduction of electricity bills by 25 per cent for a typical residential consumer as of July 1, 2017, relative to what they would have been without the initiatives that are part of Ontario's Fair Hydro Plan. • As many as half a million small businesses and farms are "specified consumers" as defined in the OFHPA, and are also benefitting from the reduction. • The proposed amendments to O. Reg. 206/17 are the next step in the ongoing implementation GA Refinancing. **B. Recovery of "Carrying Costs"** **1. Amending O. Reg. 206/17 made under the OFHPA** • OFHPA, Schedule 1 of the Fair Hydro Act, 2017, has enabled the reduction of electricity bills by 25 per cent for a typical residential consumer as of July 1, 2017, relative to what they would have been without the initiatives that are part of Ontario's Fair Hydro Plan. • As many as half a million small businesses and farms are "specified consumers" as defined in the OFHPA and are also benefitting from the reduction. • The proposed amendments to O. Reg. 206/17 would enable the ongoing implementation of GA Refinancing by establishing a mechanism for the recovery of carrying costs from specified		

consumers, defined under the OFHPA, for the inflationary cap period. • The overall net impact to specified consumers within the inflationary cap period is expected to be zero.		
Non-profit Groups	❑	❑
A. FSM Fees Review **1. Amending O. Reg. 206/17 made under the OFHPA** • The OFHPA has enabled the reduction of electricity bills by 25 per cent for a typical residential consumer as of July 1, 2017, relative to what they would have been without the initiatives that are part of Ontario's Fair Hydro Plan. • Non-profit groups would be eligible for GA refinancing if they are a specified consumer as defined under the OFHPA. • The proposed amendments to O. Reg. 206/17 are the next step in the ongoing implementation GA Refinancing. **B. Recovery of "Carrying Costs"** **1. Amending O. Reg. 206/17 made under the OFHPA** • OFHPA, Schedule 1 of the Fair Hydro Act, 2017, has enabled the reduction of electricity bills by 25 per cent for a typical residential consumer as of July 1, 2017, relative to what they would have been without the initiatives that are part of Ontario's Fair Hydro Plan. • Non-profit groups would be eligible for GA Refinancing if they are a specified consumer as defined under the OFHPA. • The proposed amendments to O. Reg. 206/17 (General) would enable the ongoing implementation of GA Refinancing by establishing a mechanism for the recovery of carrying costs from specified consumers, defined under the OFHPA, for the period for the inflationary cap period. • The overall net impact to specified consumers within the inflationary cap period is expected to be zero.		
Communities	❑	❑
A. FSM Fees Review **1. Amending O. Reg. 206/17 made under the OFHPA**		

• The OFHPA has enabled the reduction of electricity bills by 25 per cent for a typical residential consumer as of July 1, 2017, relative to what they would have been without the initiatives that are part of Ontario's Fair Hydro Plan. • Municipal facilities would be eligible for GA Refinancing if they are a specified consumer as defined under the OFHPA. • The proposed amendments to O. Reg. 206/17 (General) made under the OFHPA is the next step in the ongoing implementation GA Refinancing. **B. Recovery of "Carrying Costs"** **1. Amending O. Reg. 206/17 made under the OFHPA** • The OFHPA has enabled the reduction of electricity bills by 25 per cent for a typical residential consumer as of July 1, 2017, relative to what they would have been without the initiatives that are part of Ontario's Fair Hydro Plan. • Municipal facilities would be eligible for GA Refinancing if they are a specified consumer as defined under the OFHPA. • The proposed amendments to O. Reg. 206/17 would enable the ongoing implementation of GA Refinancing by establishing a mechanism for the recovery of carrying costs from specified consumers, defined under the OFHPA, for the inflationary cap period. • The overall net impact to specified consumers within the inflationary cap period is expected to be zero.		
Governments	❑	❑
A. FSM Fees Review **1. Amending O. Reg. 206/17 made under the OFHPA** • No fiscal impact felt by governments as a result of the proposed amendments to O. Reg. 206/17 made under the OFHPA. **B. Recovery of "Carrying Costs"** **1. Amending O. Reg. 206/17 made under the OFHPA** • No fiscal impact felt by governments as a result of the proposed amendments to O. Reg. 206/17 made under the OFHPA.		

The purpose of Section 4 is to identify and describe the types of impacts anticipated as a result of the regulatory proposal. These factors will be considered in the determination of whether a full RIA is required.

Section 4: Type of Impact	Yes	No
Health and Safety	❑	❑
A. FSM Fees Review **1. Amending O. Reg. 206/17 made under the OFHPA** • N/A **B. Recovery of "Carrying Costs"** **1. Amending O. Reg. 206/17 made under the OFHPA** • N/A		
Environment	❑	❑
A. FSM Fees Review **1. Amending O. Reg. 206/17 made under the OFHPA** • N/A **B. Recovery of "Carrying Costs"** **1. Amending O. Reg. 206/17 made under the OFHPA** • N/A		
Social Impacts	❑	❑
A. FSM Fees Review **1. Amending O. Reg. 206/17 made under the OFHPA** • N/A **B. Recovery of "Carrying Costs"** **1. Amending O. Reg. 206/17 made under the OFHPA** • N/A		

Trade	❑	❑
A. FSM Fees Review **1. Amending O. Reg. 206/17 made under the OFHPA** • N/A **B. Recovery of “Carrying Costs”** **1. Amending O. Reg. 206/17 made under the OFHPA** • N/A		
Economy	❑	❑
A. FSM Fees Review **1. Amending O. Reg. 206/17 made under the OFHPA** • N/A **B. Recovery of “Carrying Costs”** **1. Amending O. Reg. 206/17 made under the OFHPA** • N/A		
Other	❑	❑
A. FSM Fees Review **1. Amending O. Reg. 206/17 made under the OFHPA** • N/A **B. Recovery of “Carrying Costs”** **1. Amending O. Reg. 206/17 made under the OFHPA** • N/A		

The purpose of Section 5 is to estimate the direct costs for external stakeholders to comply with the regulatory proposal. If direct compliance costs are expected to exceed $2 million per year, a full regulatory impact analysis will be required. Other factors (as described in Sections 3 and 4 above) will also be reviewed in the determination of whether a full RIA is required.

Section 5: Costs	Yes	No
Are direct compliance costs likely to exceed $2 million per year?	❑	✓
Is a full RIA required?	❑	✓

Contacts

	Name	*Phone Number*
Approved by (Director)		
Ministry Contact		
Cabinet Office Policy		