LEGISLATION AND REGULATIONS COMMITTEE
BRIEFING NOTE

Energy
Electricity Rate Mitigation

CAB Sept. 12, 2016	TB/MBC Sept. 12, 2016	LRC Nov. 14, 2016	CAB Nov. 16, 2016	Effective Date January 1, 2017

Summary of Proposal

The following proposal contains a variance from Cabinet direction, which is detailed in the Cabinet Office Analysis section of this note and attached variance memo.

Context for Decision:

On Sept. 12, 2016 the Ministry of Energy received Cabinet Approval to introduce legislation that would enable a broader Electricity Rate Mitigation Strategy for electricity consumers across the province. On September 15, the Minister of Energy introduced Bill 13, the *Ontario Rebate for Electricity for Electricity Consumers Act, 2016,* (ORECA) that puts in place an 8% rebate for residential, small business customers and farms. Bill 13 is scheduled to come into force on January 1, 2017.

Summary of Proposal:

To implement the rate relief provided for under Bill 13, a number of additional regulations and regulatory amendments are needed:.

Commented [KM1]: Isn't it just one new regulation and several regulatory amendments?

1. Creating a new General regulation under the *Ontario Rebate for Electricity Consumers Act, 2016*.

   This proposed new regulation will provide the necessary mechanics to support the implementation of the 8% rebate. Provisions in this regulation include direction to Local Distribution Companies (LDCs) on:

   - Base invoice amounts for invoices (direction on what amounts should be included in the calculation of the 8% rebate).
   - Flow through of financial assistance (direction on passing through the rebate to eligible consumers).
   - Records keeping, reimbursement requirements for vendors, financial assistance re: fees and charges imposed by unit sub-meter providers.

2. Amending O. Reg. 442/01(Rural or Remote Electricity Rate Protection) made under the *Ontario Energy Board Act, 1998*.

   - This proposed amendment will update the Rural or Remote Rate Protection (RRRP) program, to provide increased rate relief to eligible rural customers (low-density customers of Hydro One). The increased subsidy would result in an approximate increased monthly subsidy from $31.50 to $60.50.
   - Cabinet previously approved an increase of $110 million. Hydro One has provided updated numbers of eligible customers and ENERGY is seeking an additional 6.4 million in order to fulfill the intention of the proposal.

Commented [KM2]: Is this rate based ie no TB/MBC approval required?

3. Amending O. Reg. 429/04 (Adjustments under Section 25.33 of the Act) made under the *Electricity Act, 1998.*

   - This regulation governs how the Global Adjustment is charged to different classes of electricity consumers. This includes setting eligibility requirements for being a Class A consumer (i.e., a participant in the Industrial Conservation Initiative).
   - This proposed amendment would provide eligible electricity consumers with an average monthly peak demand between 1 MW and 5 MW with the opportunity to participate in the Industrial Conservation Initiative. Current sector restrictions would be removed and smaller institutional and commercial businesses would be eligible. Newly eligible consumers would have to opt-in, should they wish to participate.

Commented [KM3]: This is a bit confusing when read against the terms you need to know. The proposal widens eligibility so that some Class B consumers are eligible, no? So we can't really say Class A consumer = ICI participant?

4. Amending O. Reg 495/10 (General) made under the *Ontario Clean Energy Benefit Act, 2010.*

   - For the period of 2011-2015 the Ontario Clean Energy Benefit provided certain consumers with a credit of ten percent of the total cost of electricity. The credit was put in place as a temporary measure, and there is currently no end date by which to claim retroactive payments.
   - The proposed amendment will prescribe an end date for electricity consumers to submit Ontario Clean Energy Benefit claims to service providers, and a second end date for licensed distributors and sub-meter providers to submit invoices.

5. and 6. Amending O. Reg. 275/04 (Information on Invoices to Certain Classes of Consumer of Electricity) made under the *Ontario Energy Board Act, 1998* and O. Reg 161/99 (Definitions and Exemptions) made under the *Ontario Energy Board Act, 1998*.

   - These proposed amendments are consequential to the implementation of the *Ontario Rebate for Electricity Consumers Act, 2016.*

Commented [KM4]: Could we add just a bit more – presume this is about the kind of info that needs to be put on the invoice?

Why does Ontario need these changes? Why now?

Electricity costs have been increasing as investments have been made to decarbonize and modernize the province's electricity infrastructure. Since 2010, electricity prices have risen considerably, particularly for households and small businesses.

The Ministry of Energy and Ministry of Finance were asked to develop a proposal to provide rate relief to Ontario electricity consumers. On September 12, in the Speech from the Throne, the government committed to introducing measures that would provide consumers with rate relief on their electricity bills.

Commented [KM5]: Did they commit to an implementation date?

What is the expected cost to government?

The 8% rebate is expected to cost about $1.2 billion per year (approximately $4 billion from 2017-2020). Other smaller incremental costs to government include that LDCs and other providers will likely incur some costs with updating their systems, however as the LDCs recently delivered the OCEB set up costs should not be substantial, and increased administrative costs or borrowing costs for the IESO.

Commented [MC6]: Are these costs passed on to the crown? What would the impact be if the costs were higher than anticipated?

Commented [MC7]: Are these passed on to the crown?

Commented [KM8]: I think these are not costs to government – they are costs that would be passed on to the rate base.

The Ministry also plans to use cap and trade proceeds to mitigate electricity prices for commercial and industrial consumers. A proposal for the use of proceeds will be brought forward to Cabinet in late 2016. If cap and trade proceeds are not available to support this initiative, that portion of the proposal would be abandoned.

Commented [KM9]: I think this language was removed from the final CBN for the proposal – we ended up saying that they would need to cover the costs from within or modify the proposal? Please double check.

Also not sure that this belongs in this note, as its not part of this reg package.

The cost of the ICI and RRRP program expansions will be shared across the electricity rate base, and are estimated to cost approximately $0.60/month (RRRP) and $0.74/month (ICI) for the average residential customer. The total new costs to the rate base for each program expansion are $82 million and $116.4 million, respectively (pending Cabinet approval of the additional support for the RRRP).

Commented [KM10]: What is the mechanism for that approval?

Terms you need to know

- **Local Distribution Companies (LDCs)** – Local electricity utilities, responsible for distributing power from transmission lines to people's homes (e.g., Hydro Ottawa, Toronto Hydro, etc.)
- **Regulated Price Plan (RPP)** - Since April 2005, the Ontario Energy Board (OEB) has administered an electricity price plan that provides stable and predictable electricity pricing, encourages conservation and ensures the price consumers pay for electricity better reflects the price paid to generators. This pricing plan is known as the Regulated Price Plan (RPP). About 5 million residential consumers, small businesses and farms are eligible for the RPP.
- **Class B Consumer** – commercial, institutional and small industrial consumers, typically with load size between 0.05 – 3 MW. Class B consumers pay GA as a flat rate applied to electricity consumption. Class B consumers include those that choose not to become Class A.
- **Class A Consumer** – large commercial and large industrial consumers with average peak load size above 3 MW, subject to eligibility. Class A consumers pay GA based

on their electricity consumption during the five highest peak demand hours during the year.

Cabinet Office Analysis

Following the Speech from the Throne and the introduction of the ORECA in September, Ontarians are expecting to see electricity rate relief in January 2017. This proposal provides the mechanisms to implement this commitment. There is urgency to implement this proposal so that the direction can be implemented in a timely manner (e.g. so that bill issuers can prepare Customer Information Systems for setting new RRRP rates and calculate associated benefits, so that LDCs have time to prepare for the expected increase in the ICI program, all in advance of the January implementation). The following regulations and regulatory amendments are being proposed:

Commented [KM11]: Not sure we can even say this can be done 'in a timely manner". Perhaps rephrase to note the implementation changes that need to happen by January 1, thus the need to move forward with the regulation changes as soon as possible.

1. General Regulation

The proposed General Regulation under the Ontario Electricity Rebate Act, 2016 will put in place a framework very similar to the framework developed to deliver the Ontario Clean Energy Benefit. The regulation provides instruction to LDCs on how the rebate is to be calculated (e.g., rebate is calculated before taxes; clarifies how the rebate is applied to those receiving Ontario Electricity Support Program assistance).

The proposed General Regulation also provides an outline on how the payments flow through to customers. Through the proposed General Regulation, a parallel process will be created to ensure that Independent Power Authorities and have the opportunity to participate and have their customers receive the provincial rebate. There were six communities that did not enroll to receive the OCEB. These communities would be eligible for the 8% rebate, but would need to go through the enrollment process.

2. Rural or Remote Electricity Rate Protection (RRRP) Expansion – Regulation

The RRRP framework was put in place to ensure that all Ontario residents pay similar prices for electricity distribution, regardless of their geographic location. The Ministry of Energy is seeking to increase the amount of rate protection available for eligible rural or remote electricity customers. Under the RRRP regulation the amount of rate protection available to Hydro One's R2 customers (residential customers who are classified as low density) is capped at a fixed amount of $127 million – which amounts to a monthly subsidy of $31.50. The RRRP program is paid for by all electricity customers across the province, and costs the average residential consumer approximately $1/month.

In September 2016, Cabinet approved an additional $110 million in RRRP program funding that was intended to provide an increased benefit of approximately $29/month for all eligible RRRP customers. The additional monthly cost of this proposal for an average residential consumer was estimated to be $0.60.

Variance from cabinet direction: The Ministry of Energy is proposing to increase rate protection for eligible customers by an additional $6.4M, based on a revised estimate of eligible customers provided by Hydro One. The additional $6.4M will not increase the monthly cost for an average residential consumer.

Commented [KM12]: How can this be true?

As part of the Price Mitigation initiatives, Cabinet directed that the funding for R2 customers be adjusted annually to reflect any increases on their electricity bills. The proposed amendments to the regulation will add an escalating factor to the new base rate protection amount. Starting in 2018, and every year after, the total amount of rate protection available to Hydro One's R2 customers would be increased by a percentage, as calculated by the Ontario Energy Board.

3. Industrial Conservation Initiative Expansion (ICI)

The ICI is intended to incent a greater number of Ontario businesses to lower their electricity costs by shifting energy demand away from peak demand periods. Reducing peak demand increases the reliability of the power grid, reduces greenhouse gas (GHG) emissions and helps to defer the need to procure more resources. In 2010, when Ontario introduced ICI, the program was available to customers with a peak demand greater than 5 MW and in 2013 was subsequently expanded to allow eligible customers with a peak demand for electricity above 3 MW and less than or equal to 5 MW to opt in to the program.

The Ministry of Energy is proposing to expand eligibility under ICI to include all electricity consumers and market participants with an average monthly peak demand greater than one MW and to remove sector restrictions so that smaller institutional and commercial businesses would be eligible. This would expand the ICI to include more than 1000 new customers. Non-ICI participants will likely see an increase on their bills but the extent of the impact is dependent on the uptake of the expanded ICI program.

4. Amending O. Reg. 495/10 (General) made under the Ontario Clean Energy Benefit Act, 2010

In addition to enacting the provisions for the 8% rebate, Bill 13 also included amendments to the Ontario Clean Energy Benefit Act, 2010 that provided the necessary authority to prescribe end dates for retroactive claims, eliminating further crown liability for reimbursements after the prescribed date. Proposed amendments will establish February 1, 2017 as the cut-off date for customers with an eligible account to claim unpaid OCEB amounts.

Although this proposal is not expected to affect the majority of OCEB customers (as the Ministry of Finance has concluded that there were minimal errors in the application of the program), the potential size of the liability related to retroactive payments is highly uncertain due to data limitations. ENERGY's rough estimate for this liability is $10 million.

Commented [KM13]: Can we give a sense of magnitude? How much was paid out under OCEB during the life of the program?

5. Amending O. Reg. 161/99 (Definitions and Exemptions) made under the Ontario Energy Board Act, 1998.

This proposed amendment is required to help ensure that the 8% rebate is passed on to individual units in multi-unit complexes.

Commented [MC14]: To what degree of certainty?

Commented [KM15]: Clarify - individually metered units, or all individual units?

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

This amendment allows for the rebate legislation and any regulations under it to alter the presentation of invoices. This proposal is necessary for the invoice to present the 8% rebate as a separate line item.

There is also one related Minister's Regulation on invoicing requirements (to provide clear direction to energy vendors) that is moving forward in parallel with this package.

Linkages:

Ontario's Climate Change Action Plan (CCAP)

The CCAP, released in summer 2016, reiterated the 2016 Budget commitment and stated that Ontario intends to invest in initiatives that both reduce greenhouse gas (GHG) emissions and ensure that the net impact of cap and trade would not result in an overall increase in electricity costs for commercial and industrial consumers, and that there would be a modest benefit of up to $2 per month, on average, to residential consumers.

At the time, it was estimated that redirecting cap and trade auction proceeds to lower the cost of electricity would reduce up to 3,000,000 tonnes of greenhouse gas (GHG) emissions by 2020.

Electricity Rate Mitigation Initiatives:

The OCEB was a five-year legislated program put in place as a broad-based, transitional measure to a cleaner electricity system. OCEB was also put in place following the implementation of the Harmonised Sales Tax (HST). Unlike the previous provincial Retail Sales Tax (RST), the HST (and GST) included electricity in the taxable base. OCEB expired on December 31, 2015.

The government also recently ended the electricity Debt Retirement Charge (DRC) on residential users earlier than planned, as of January 1, 2016, and put in place the low-income targeted Ontario Electricity Support Program (OESP).

Delivery:

For the 8% rebate, LDCs have indicated they will likely be operational by January 1 2017. However, the legislation gives LDCs until July 1 2017 to begin delivering the 8% rebate and associated messaging. If LDCs are not operational on January 1 2017, customers would receive any back-owed rebate in a lump sum once the vendor is able to deliver the rebate.

A dedicated information portal will be created by ENERGY for oversight and tracking of the rebate (similar to what was created under the Clean Energy Benefit program).

Pending approval of the increased amount of rate protection through the RRRP, the OEB will be required to set the RRRP rate. This rate is typically set by the OEB in December and then Hydro One would implement the changes. This would be complete by January 1 2017.

The ICI expansion would be implemented by the IESO and LDCs by XXX

Stakeholder Consultations:

Regulatory Registry

- On September 28, the Ministry of Energy posted a proposal for comment on the Regulatory Registry to provide stakeholders with the opportunity to comment on the electricity mitigation initiative.
- The posting included the proposed changes to the RRRP, ICI and new regulations needed to support the 8% rebate.
- [placeholder – summary of RR feedback]

LDC Working Group

- The Ministry hosted an LDC Working Group with nearly 40 LDCs representatives where feedback was provided to the ministry to consider in the development of the regulatory package. This included feedback on the billing system limitations that was incorporated into proposed bill presentment requirements.

Standing Committee of Justice – Public Hearings for Bill 13

- On October 3, a number of organizations as well as individual citizens made presentations to the standing committee on Justice regarding Bill 13, including requesting additional rate relief, support for the rate relief package, and support for provisions that would limit disconnection of customers.

Risks

Commented [KM16]: any reason we say vendor and not LDC?

Commented [MC17]: ENERGY to confirm

Commented [MC18]: ENERGY to provide.

Commented [KM19]: when?

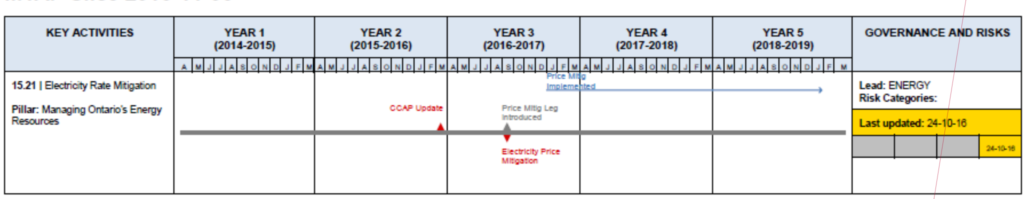
Commented [MC20]: What was the specific change?

Commented [MC21]: ENERGY to note any additional risks

- The 8% rebate would be structured and delivered in a similar fashion to the former OCEB. There is a risk that the government could be criticized for replacing the OCEB with a smaller rate relief package, just one year after the OCEB ended.
- This proposal does not align with the 2016 Budget fiscal plan and there are no proposed offsets identified.
- The proposal does not include a scheduled review period or an end date for the legislated benefit, resulting in an ongoing fiscal pressure that could only be removed by legislative amendment.
- For the rate-based portions of the proposal (i.e., the expansion of ICI and RRRP) the result is an increase in costs for ratepayers not included in those programs (i.e., primarily residential, small business and farms). Shifting costs to some electricity consumers to lower rates for others carries the risk that the charge would be characterized as an unconstitutional tax. To establish that the charge is legitimate, it must be established that the purpose and effect of the charge is to facilitate the maintenance of a financially viable electricity system by way of load management or some other feature under which those who are subsidized provide an overall system benefit enjoyed by those who subsidize them.
- Under the proposal, some eligible consumers (e.g., multi-unit residential buildings) may receive multiple benefits (8% rebate and proceeds recycling), while others would be eligible for only one type of benefit.
- The Electricity Distributor Association raised concerns related to the costs of supporting the proposed increased RRRP, as the RRRP is paid for by a charge across all LDCs

Milestone Legend: Ongoing Activity | Policy Approval | Delivery Milestone
Key Activity Status Legend: Heightened Management Attention Required | Management Attention Required | Monitoring | Satisfactory

MYAP Slice 2016-11-06



Commented [KM22]:

Commented [KM23]:

Commented [KM24]: is this still relevant - have they identified any offsets? They have TB/MBC approval.

Commented [KM25]: Again, the leg has passed so not sure this risk still applies. It's not focused on the reg.

Commented [MC26]: ENERGY to comment

Commented [MC27]: ENERGY to provide – response to the concern/mitigation measures

Commented [KM28]: Please put on a separate page, landscape format.