

RE: LegCounsel < LRC memo

From: "Moore, Karen (CAB)" <"o=govon/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=moore, karen (cab)339">
To: "Adams, Laura (CAB)" <laura.adams2@ontario.ca>, "Frndova, Lucia (CAB)" <lucia.frndova@ontario.ca>, "Scott-Vickers, James (CAB)" <james.scott-vickers@ontario.ca>, "Valerio, Anna (CAB)" <anna.valerio@ontario.ca>
Cc: "Dabraio, Rachele (CAB)" <rachele.dabraio@ontario.ca>
Date: Tue, 12 Dec 2017 21:12:20 -0500

Okay. Lucia / Anna do you want to send this to him, or shall I?

Karen

416-325-4764

karen.moore4@ontario.ca

From: Adams, Laura (CAB)
Sent: December 12, 2017 9:11 PM
To: Moore, Karen (CAB) <Karen.Moore4@ontario.ca>; Frndova, Lucia (CAB) <lucia.frndova@ontario.ca>; Scott-Vickers, James (CAB) <James.Scott-Vickers@ontario.ca>; Valerio, Anna (CAB) <Anna.Valerio@ontario.ca>
Cc: Dabraio, Rachele (CAB) <Rachele.Dabraio@ontario.ca>
Subject: Re: LegCounsel < LRC memo

Ok. I'll leave it to you to update him as appropriate. TBH I'm not sure I'm following everything and all the back and forth with PO!

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Moore, Karen (CAB)
Sent: Tuesday, December 12, 2017 9:08 PM
To: Adams, Laura (CAB); Frndova, Lucia (CAB); Scott-Vickers, James (CAB); Valerio, Anna (CAB)
Cc: Dabraio, Rachele (CAB)
Subject: RE: LegCounsel < LRC memo

This is related to that item but I did not have the Leg Counsel memo, so he has not seen this yet.

Karen

416-325-4764

karen.moore4@ontario.ca

From: Adams, Laura (CAB)
Sent: December 12, 2017 9:07 PM
To: Frndova, Lucia (CAB) <lucia.frndova@ontario.ca>; Scott-Vickers, James (CAB) <James.Scott-Vickers@ontario.ca>; Valerio, Anna (CAB) <Anna.Valerio@ontario.ca>; Moore, Karen (CAB) <Karen.Moore4@ontario.ca>
Cc: Dabraio, Rachele (CAB) <Rachele.Dabraio@ontario.ca>
Subject: Re: LegCounsel < LRC memo

Karen, apologies for not recalling this, but is this what you shared with DM earlier?

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Frndova, Lucia (CAB)
Sent: Tuesday, December 12, 2017 7:07 PM
To: Scott-Vickers, James (CAB); Valerio, Anna (CAB); Moore, Karen (CAB); Adams, Laura (CAB)
Cc: Dabraio, Rachele (CAB)
Subject: LegCounsel < LRC memo

Good evening,

As information, below is the final draft of the OLC memo that is intended to come tomorrow related to the ENERGY item. The message in the memo is consistent with what has already been provided - such that a higher constitutional risk could impact sealing of the regulation; however, this does not necessarily impact the ability to move forward with the regulation.

I gather that most of the discussion at MAG is focused on the legal opinion, and understandably, this memo from OLC does not get into those details. I understand that MAG has provided input into the LRC-CBN to help summarize the risks identified in the legal opinion.

Please let me know if you have any questions on the OLC memo. Thank you.

Lucia Frndova

Manager and Secretary, Legislation and Regulations Committee

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MEMORANDUM

Date : December 13, 2017

To : Hon. Deborah Matthews

Chair of Cabinet

From : Mark Spakowski
Chief Legislative Counsel

Re : Proposed regulation under the *Ontario Fair Hydro Plan Act, 2017*

The Ministry of Energy is proposing a regulation to amend Ontario Regulation 196/17 (Invoicing Requirements) made under the *Ontario Fair Hydro Plan Act, 2017*. The proposed regulation was considered at the Legislation and Regulations Committee on Monday, December 11, 2017.

After the proposed regulation was sealed by our office and delivered to LRC, the Constitutional Law Branch (CLB) prepared an opinion for the Ministry. The CLB opinion indicates that the proposed regulation poses a moderately high risk of being found unconstitutional. Had our office been aware of the CLB opinion, we would not have sealed the proposed regulation.

A regulation may be made even if it is not sealed. However this is rare - to our knowledge this has not been done in at least the past decade. In the normal course, the Ministry responsible for the regulation and the Office of Legislative Counsel work together, during the drafting process, to address any concerns that might affect the sealing of the regulation.

If an unsealed regulation is made by the Lieutenant Governor in Council, it is effective in law like any other regulation, unless and until it is successfully challenged.

Mark Spakowski
Chief Legislative Counsel

cc. Irwin Glasberg, Acting Deputy Attorney General
Mark Spakowski, Chief Legislative Counsel
Sarah Wright, Acting Director, Constitutional Law Branch
Maud Murray, Legal Director, Ministry of Energy
James Rehob, Counsel, Ministry of Energy
Han Dong, MPP, Vice Chair, LRC
Lucia Frndova, Secretary, LRC

