

RE: OFHP Bill Presentment- Updated Risk Language for CBN

From: "Schlaepfer, Martin (ENERGY)" <martin.schlaepfer@ontario.ca>
To: "Hindmarch-Watson, Tim (CAB)" <tim.hindmarch-watson2@ontario.ca>
Cc: "Chatterjee, Jeet (ENERGY)" <jeet.chatterjee@ontario.ca>, "Moore, Karen (CAB)" <karen.moore4@ontario.ca>
Date: Tue, 12 Dec 2017 08:30:20 -0500

Yeah it's with our MO. Should have something to you very shortly.

Martin

From: Hindmarch-Watson, Tim (CAB)
Sent: December 12, 2017 8:28 AM
To: Schlaepfer, Martin (ENERGY) <Martin.Schlaepfer@ontario.ca>
Cc: Chatterjee, Jeet (ENERGY) <Jeet.Chatterjee@ontario.ca>; Moore, Karen (CAB) <Karen.Moore4@ontario.ca>
Subject: RE: OFHP Bill Presentment- Updated Risk Language for CBN

Hi Martin:

Following up on this. Do you have a sense of timing for the ministry's fact check and comments?

Thanks

Tim Hindmarch-Watson
416-325-4618

From: Hindmarch-Watson, Tim (CAB)
Sent: December-11-17 5:03 PM
To: Schlaepfer, Martin (ENERGY)
Cc: Chatterjee, Jeet (ENERGY); Moore, Karen (CAB)
Subject: OFHP Bill Presentment- Updated Risk Language for CBN
Importance: High

Hi Martin:

I have drafted the below paragraph to address the new risk that has been flagged for inclusion of an updated CBN for Cabinet on Wed. Please review and provide any edits or suggestions ASAP. I have added a final sentence about possible work to mitigate the risk in the future, so please advise if this is part of the plan or if some other approach is proposed or recommended.

"Legal Risk"

The current proposal does not change the legal risks associated with the inclusion of OFHP messaging on consumer's electricity bills, but a constitutional law risk that was not previously outlined has been identified. The Ministry of the Attorney General has advised that there is a moderately-high risk that government requiring LDCs and USMPs (utilities) to convey this information in this way could be successfully argued to constitute an infringement on the utilities' freedom of expression under the Canadian Charter of Rights and Freedoms. As noted, ENERGY has been working with utilities on the proposal through its formal Working Group and advises that the risk of a utility bringing a case of this nature forward is low. **[ENERGY will work with MAG to explore possible language options that could mitigate this risk through future regulatory amendment, as appropriate]."**

Thanks,

Tim Hindmarch-Watson

Policy Advisor

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