OFA -- IESO CREDIT FACILITY
MINISTER OF FINANCE DIRECTIVE FOR AN EXEMPTION FROM THE INTERCEPT PROVISION ("INTERCEPT EXEMPTION DIRECTIVE")
REQUIRED UNDER THE OFA'S LENDING POLICY

CONTEXT

The IESO had requested a new revolving credit facility in an amount of up to $2 billion from the OFA to support its role in the implementation and participation under the *Ontario Fair Hydro Plan Act, 2017* ("OFHP Act"). In the same request, the IESO had requested a reduction to its existing credit facility (currently provided under the "Original Credit Facility Agreement", see Background section) from the current $975 million to $475 million.

On June 29, 2017, the OFA received a directive from the Minister to accommodate the IESO's request and provide a revolving credit facility to the IESO in an amount of up to $2 billion (the "OFHP Credit Facility").

Pursuant to the OFA Lending Policy, the OFA is required to include an intercept provision in respect of loans made by the OFA to public bodies on an unsecured basis, unless otherwise directed by the Minister of Finance [or Treasury Board or Cabinet]. In accordance with section 23 of the *Capital Investment Plan Act, 1993* ("CIPA"), the intercept provision allows the Minister to deduct amounts equal to any amounts the public body fails to pay to the OFA under a loan agreement from money appropriated by the Legislature for payment to the public body.

Per the requirements of the OFA's Lending Policy, the OFA is returning to request a Minister's direction to exempt the requirement to include an intercept provision in the OFHP Credit Facility agreement with the IESO, as well as the Original Credit Facility Agreement, both of which may be amended from time to time.

- The OFA Lending Policy provides the following requirement for unsecured loans to public bodies under CIPA:

  > Except where otherwise directed by the Minister of Finance, Treasury Board or Cabinet, and prior to the OFA making any loan to a public body, the OFA will [e]nsure that it has an appropriate intercept in place for the loan.

- The OFA Lending Policy also includes the following requirements in relation to the intercept provision:

  > The public body and its responsible ministry are to agree that the Minister of Finance is entitled to deduct from money appropriated by the Legislature for payment to the public body amounts equal to any amounts that the public body fails to pay to the OFA on account of indebtedness under its loan agreement with the OFA.

RECOMMENDATION

- OFA staff recommend the Minister sign the attached Intercept Exemption Directive allowing the OFA to exclude intercept provisions from the OFHP Credit Facility Agreement, as well as the Original Credit Facility Agreement, both of which may be amended from time to time.

- The requested Intercept Exemption Directive would only apply to the two specified IESO credit facilities.

MINISTER'S DIRECTIVE

- The Minister of Finance's Intercept Exemption Directive would authorize the OFA to exempt the Original Credit Facility Agreement and the OFHP Credit Facility agreement, both as amended from time to time, from the OFA Lending Policy requirement to include an intercept provision.

RATIONALE FOR EXEMPTION

- This Intercept Exemption Directive will enable the IESO to fulfil its commitments under the OFHP Act as the IESO will have to finance for a short or medium term period the funding shortfalls in the implementation of the OFHP Act, as well as the continued implementation of the market support function for the IESO through the $475 million facility (to be amended from the current $975 million facility).

- Including an intercept provision in the credit facility agreements with the IESO would have no practical usefulness as the IESO receives no operational funding from the Province of Ontario.

- While the IESO settlements system for the electricity sector may facilitate the flow of appropriations of the Ministry of Energy for energy-related programs such as the Ontario Rebate for Electricity Consumers (OREC), the Rural or Remote Rate Protection Program (RRRP), the Ontario Electricity Support Program (OESP) etc., these payments are for the benefit of various electricity consumers.

- Intercepting these program specific payments, which are appropriated by the Legislature for the Ministry of Energy, under which the IESO may only be providing a conduit to local distribution companies under the IESO settlement system to provide benefits to ratepayers, in order to recover loan payments would not be in alignment with the wording or intent of the OFA's Lending Policy.

FISCAL IMPACT

- There is no expected incremental fiscal impact for the Province from providing an exemption from the intercept provision requirement of the OFA Lending Policy.
  - [The IESO is an entity consolidated to the Province and if there were any amounts to intercept, there would be no incremental fiscal impact of having the Intercept Exemption Provision.]

BACKGROUND

The IESO

- The IESO is a not-for-profit corporate entity established in 1998 by the *Electricity Act, 1998*. It is governed by an independent Board of Directors and its Chair and Directors are appointed by the Province.

- The IESO has full statute-based authority for establishing, monitoring and enforcing reliability standards in the province. All the companies that make up the power system in Ontario must meet the IESO's standards.

- Its fees and licences to operate are set by the Ontario Energy Board and it operates independently of all other participants in the electricity market.

- The IESO is a public body for the purposes of CIPA.

<u>OFA Credit Facilities to the IESO</u>

- Pursuant to directives dated December 22nd 2004, October 3rd, 2005, July 28th, 2006, October 14th, 2010, December 18th, 2013, and November 28, 2016, the Minister of Finance ("Minister") approved and directed the Ontario Fiancing Authority ("OFA") to make loans (the "Advances") to the Ontario Power Authority (the "OPA") from time to time in an aggregate amount not to exceed $975 million at any time, as considered necessary by the OPA to meets its purposes.

- Effective January 1, 2015, the OPA and the Independent Electricity System Operator amalgamated and continued as a corporation without share capital under Part II of the *Electricity Act, 1998* (the "Amalgamation") with the name Independent Electricity System Operator ("IESO").

- Pursuant to the Amalgamation the obligations of the OPA became obligations of the IESO.

- The terms and conditions governing the Advances are set out in a credit agreement entered into between the OFA and the OPA dated January 1, 2005, as subsequently amended by amending agreements dated February 14, 2005, October 11, 2015, September 27, 2006, July 13, 2007, November 9, 2010, December 20, 2013, December 19, 2014 and November 30, 2016 (as so amended, the "Original Credit Facility Agreement").

Electricity Finance Branch / Corporate and Electricity Finance Division
Ontario Financing Authority
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