Ontario

Provincial Protection and Assurances Agreement

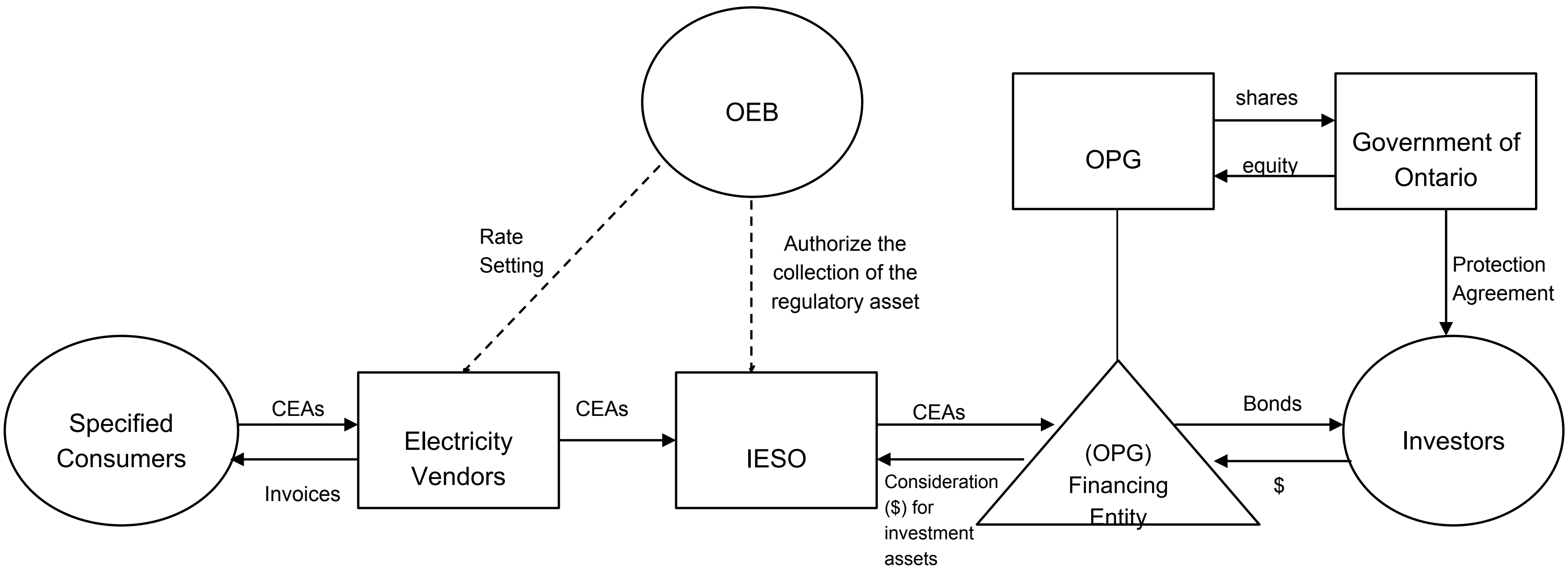
September 19, 2017

CONFIDENTIAL & COMMERCIALLY SENSITIVE

Background

- The *Ontario Fair Hydro Plan Act, 2017,* enables the IESO to establish a variance account to record the deferral amounts from the difference between collections from current ratepayers and payment obligations to generators and conservation, and to create a regulatory asset to recover the balance in the variance account
    - The IESO can then sell the regulatory asset – the right to recover those deferred amounts from specified consumers in the future
    - OPG, as the Financial Services Manager, is authorized to establish one or more financing entities that may incur funding obligations
    - The Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from ratepayers
- To purchase the regulatory asset from the IESO, the Financing Entity must borrow a portion of the funds from capital markets (planned to be 51%, with other financing to come from OPG and, indirectly, the Province)
    - OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable or would result in higher financing costs, to be passed on to ratepayers
- OPG has requested that the Province provide a protection agreement that supports the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would take over the funding obligations of the Financing Entity

Global Adjustment Refinancing – Roles and Responsibilities



Note: CEAs are "clean energy adjustments"

Provisions Under the Act

- As contemplated under the Act, OPG is requesting a Provincial commitment to support the planned Financing Entity's ability to borrow to finance the deferral of global adjustment amounts in certain limited circumstances
- Under s.5(3) of the OFHP Act,
    - *The LGIC may by order,*
        - *Authorize the Minister (of Energy) and the Minister of Finance, acting together on behalf of the Province,*
            - *To agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and*
            - *To determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity*
        - *Specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance*
        - *Specify a maximum liability for the guarantee or indemnity*

Provincial Protection Agreement

- OFA, the Ministry of Finance and external advisors – consistent with OPG advice – recommend limiting activation of the protection agreement to the following circumstances:
  - Actions of the Legislative Assembly that undermine the financing arrangement, i.e., repeal or amendment of the *Ontario Fair Hydro Plan Act, 2017*, or new legislation that adversely affect the Financing Entity
  - A court decision that declares the rights of the Financing Entity to recover amounts from ratepayers to be invalid or unenforceable
  - Changes to the organization, structure or operations of IESO or a change in the electricity market structure or operations that adversely affects the ability of the Financing Entity to recover amounts related to funding obligations.
- In the event the protection agreement is triggered, the Province will be required to pay the obligations of the Financing Entity including principal and interest payments on debt issued to date, any payments to derivatives counterparties and any outstanding payments to service providers
  - The Province could potentially service the debt and other obligations and could replace OPG as the financial services manager
- The protection agreement may need to be revised at a future date, or approval from the Province may be required, if the financing entity must access US market as investors in that market will likely require additional compensation if the assumption agreement is triggered

Considerations

- If a protection agreement is not provided, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from the IESO or the cost of the financing will be potentially materially greater than it otherwise would be
- If a protection agreement is provided, the Province takes on a contingent liability
  - The creation of a contingent liability will not currently affect net debt
  - The amount of the contingent liability will increase over the duration of the Fair Hydro Plan and peak at an estimated $24B to $26B of debt (final cost forecasts TBC), including principal and accumulated interest
- In the event the protection agreement is triggered, the Province's net debt will most likely increase by an amount equal to the contingent liability at that point in time
  - The Province's interest payments will also increase by the debt interest servicing of the debt payment obligations it has assumed under the protection agreement
  - IOD expense may increase between $0.8B and $1.3B per annum, assuming the protection agreement is triggered when debt is at its peak, and depending on the interest rate at which the Financing entity will be able to borrow at

Proposed Minute

The Ministry of Finance and Ministry of Energy request that Treasury Board/Management Board of Cabinet:

a) Approve that the Minister of Finance and Minister of Energy provide a protection agreement, to be authorized by Order in Council under the *Ontario Fair Hydro Plan Act, 2017* in respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities substantially reflecting the terms set out in the Provincial Protection and Assurances Indicative Term Sheet and subject to such revisions that the two ministers acting together may determine;

b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the *Ontario Fair Hydro Plan Act, 2017* that authorizes the Minister of Finance and the Minister of Energy, acting together on behalf of the Province,

   i. to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest; and

   ii. to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity.