MINISTER OF ENERGY REQUEST FOR SECTION 28 APPROVAL FOR INDEMNITY AGREEMENTS IN FAVOUR OF OPG AND IESO FOR THEIR PARTICIPATION UNDER THE ONTARIO FAIR HYDRO PLAN ACT

ISSUE

The Minister of Energy is requesting approval from the Minister of Finance, pursuant to Section 28 of the *Financial Administration Act (“*FAA”*)* to enter into Indemnity Agreements (“Agreements”), on behalf of the Crown, in favour of Ontario Power Generation (“OPG”), and its subsidiaries (excluding a subsidiary that is a financing entity) and the Independent Electricity System Operator (“IESO”) with respect to their roles in carrying out the implementation of the Ontario Fair Hydro Plan (“OFHP”) under the *Ontario Fair Hydro Plan Act, 2017* (the “OFHP Act”). The indemnities would extend to the directors, officers and employees of these entities, and, directors, officers, trustees and/or employees of a financing entity, if he or she is also a director, officer or employee of OPG or one of its subsidiaries.

Section 28 of the FAA requires that all ministries and public entities request the prior written approval of the Minister of Finance or the President of the Treasury Board for any transaction or commitment that would directly or indirectly increase the indebtedness or contingent liabilities of Ontario.

RECOMMENDATION

- It is recommended that the Minister of Finance approve, pursuant to Section 28 of the FAA, the Ministry of Energy’s request to provide indemnities and waivers, on behalf of the Crown, in favour of Ontario Power Generation (OPG) and the Independent Electricity System Operator (IESO) in the forms requested (the “Indemnity Agreements” and individually an “Indemnity Agreement”.
- Both IESO and OPG have specifically asked for these indemnities in order to allow them to carry out their roles in implementing the Ontario’s Fair Hydro Plan.
- In order to support the successful implementation of the OFHP Act, it is recommended by the Minister of Energy that the Minister of Finance approve this request.

WHAT IS THE MINISTER BEING ASKED TO SIGN?

The Minister is being asked to sign the section 28 approval forms and the transmittal letter to Glenn Thibeault, Minister of Energy.

SUMMARY OF PROPOSED INDEMNITIES

This summary of the OPG/IESO Indemnity Agreement sets out why indemnities are being sought, who is being indemnified, for what, and also addresses the proposed waiver of claims, whereby the Province agrees not to bring certain claims against the indemnified parties.

Why are indemnities being sought?

Both the IESO and OPG have specifically asked for these Indemnities in order to allow them to carry out their roles in implementing the OFHP. Providing the requested Indemnities will provide OPG, OPG's Subsidiaries, the IESO and each of their respective directors, officers and employees with assurance against liability in order to allow them to comprehensively carry out their respective roles in the successful implementation of the OFHP.

Both OPG and the IESO are required to carry out activities that may fall outside the scope of their typical business activities and corporate mandates. As a result, these activities could be perceived as not being carried out in "good faith" or in the best interest of the corporation thereby exposing OPG, OPG's Subsidiaries, IESO, and their respective directors, officers and employees to increased liability.

While statutory protection from liability is provided to IESO's directors, officers and employees, and to OPG's employees these protections are limited to "good faith acts". Therefore, the statutory protections do not preclude persons from bringing a claim against the Protected Persons (as defined in the Indemnities) in relation to these activities on the grounds of "bad faith" (see Appendix A for details on potential risks and Appendix B for details on limitations to existing protections to IESO, OPG and directors, officers and employees).

Who the Indemnity Applies to

The indemnity is being given in favour of "Protected Persons" which comprises IESO and OPG, and OPG's subsidiaries (excluding the financing entity) as well as their respective directors, officers and employees.

In the case of directors, officers and employees of OPG and its subsidiaries, they could also be indemnified for activities undertaken on behalf of an entity that is not included in the definition of Protected Persons where they are doing so in the implementation of the OFHP or for OPG's role as Financial Services Manager of a financing entity, for example, signing documents on behalf of a financing entity that is a trust at the request of OPG or acting as directors, officers or employees of entities that are carved out of the Indemnity Agreement, where they are doing so in the implementation of the OFHP and are also a director, officer or employee of OPG or any of OPG's subsidiaries.

What Indemnities are being provided?

Protected Persons are being indemnified against all losses, costs, damages and other expenses for any amount for which they incur damages in relation to any civil, criminal, administrative, investigative and/or other claim that relates to any act or omission that the Protected Person undertakes in relationship to the Fair Hydro Plan.

The Protected Persons are indemnified for regular and punitive as well as a broad range of other types of damages that are not always included in an indemnity, such as consequential damages and economic losses. The indemnity also covers costs and expenses for the Protected Persons in defending themselves against a claim. These indemnities are for any act or omission and activity that relates to the Fair Hydro Plan.

The Indemnity Agreements provide that the Protected Person shall not benefit from the indemnities contained therein to the extent that the losses are already covered by an insurance policy or another indemnity. The indemnities provided in the Indemnity Agreements also apply where, in the case of a criminal or administrative proceeding, the Protected Person had a reasonable belief that their conduct was lawful.

The indemnities do not apply where the loss relates to the gross negligence or wilful misconduct of the Protected Person. It is also explicitly carved out of this exception that a failure to conduct reasonable due diligence investigation will not in itself constitute gross negligence or wilful misconduct, which narrows the exception in the context of disclosure and activities relating to issuing securities in public markets such that failing to conduct due diligence will not necessarily invalidate the Indemnity.

Scope of liability in the indemnities

The Indemnity Agreement provides that the Protected Person shall not benefit from the indemnities contained therein to the extent that the losses are already covered by an insurance policy or another indemnity (though to the extent that the Protected Person makes a claim on an indemnity that creates a loss for another Protected Person, such as OPG and its subsidiaries and the IESO, such other Protected Person may make a claim under an Indemnity Agreement). The indemnities provided in the Indemnity Agreement also apply where, in the case of a criminal or administrative proceeding, the Protected Person had a reasonable belief that their conduct was lawful.

The indemnities contained in the Indemnity Agreement do not apply where the loss relates to the gross negligence or wilful misconduct of the Protected Person. It is also explicitly carved out of this exception that a failure to conduct reasonable due diligence investigation will not in itself constitute gross negligence or wilful misconduct, which narrows the exception in the context of disclosure and activities relating to issuing securities in public markets such that failing to conduct due diligence will not necessarily invalidate the Indemnity.

Waiver of claim provision

The waiver of claims provision provides that the Province will not make a claim against a Protected Person who is an individual (i.e., does not apply to OPG/IESO or subsidiaries) relating to any activities associated with the Fair Hydro Plan.

The waiver of claims provision does not apply to claims for wilful misconduct, dishonesty or gross negligence.

Notification of Claims

The Indemnity Agreement sets out how the Protected Person should notify the Province of any claims, and how any proceedings should be dealt with amongst the parties, as well as how any expenses and amounts should be paid during the determination of the claim.

Provincial Warranty

The Indemnity Agreement includes a warranty section given by the Province. In this section the Province Warrants that it has the authority and capacity, and has taken all necessary steps to enter into the Indemnity Agreement.

- This is an unusual provision, but likely relates to the fact that the Province is not the employer of the indemnified party, or the officers and directors are not the officers and directors of the Province.

KEY CONSIDERATIONS AND RISKS

The Indemnity Agreements give an indemnity for a broader range of actions than those that are usually given to indemnitees of the Province, specifically by giving an indemnity for actions that are not in the best interest of the corporation and may not be in good faith;

The Indemnity Agreements extend to the OPG and the IESO as corporations, beyond the more normal practice of indemnifying directors, officers and employees; and also extends to subsidiaries of the OPG, excluding financing entities under the OFHP Act.

The Indemnity Agreements include a waiver of claims with respect to indemnitees who are individuals by the Province as shareholder, meaning that except for gross negligence, dishonesty and wilful misconduct, the Province cannot bring an action against an indemnified individual.

Potential Fiscal Impact

The Ministry of Energy states that the risk of the Province providing the Indemnity Agreements is undeterminable and unquantifiable at this time, due to uncertainty around possible claims under the Indemnities. The Ministry of Energy notes, however, the risk is mitigated by the existence of statutory immunities under the *Electricity Act, 1998*, for IESO, and under the OFHP Act, for OPG, (see further discussion below), pre-existing protection for director and officers under insurance and the limitation of indemnity to claims arising from IESO's and OPG's respective roles in implementing the OFHP.

Because the Indemnity Agreements are not capped the Provincial exposure is not limited and will extend to the extent of any claim that is covered by the Indemnity Agreements.

The Ministry of Energy notes that in the event that an indemnity claim does arise and a payment is required, the Ministry would be unlikely to be able to support these payments and would need to return to TB/MBC for an increase in its allocation.

Accounting Treatment

There is a risk associated with the anticipated accounting treatment of the GA Financing portion of the OFHP. With the Province providing guarantee agreements, financial support through credit facilities and the proposed agreements to indemnify the IESO and OPG, the case for the anticipated accounting treatment of the GA structure could be weakened.

OPCD has confirmed that OPG has received advice that the accounting treatment will be consistent with the GA Financing Structure. IESO is expected to also confirm the same.

The Minister of Energy had initially considered limiting the indemnities to directors and officers. However, IESO and OPG both have indicated that they require their respective indemnity cover their corporations as well (and in the case of OPG, its subsidiaries) given the nature of the risks they face.

Previous Direction on Indemnity for IESO and OPG

There is no existing specific Cabinet direction for the Ministry of Energy to provide the requested Indemnities to IESO and OPG.

Insofar as IESO and OPG have specifically asked for these Indemnities in order to allow them to carry out their roles in implementing the ONFHP, providing the requested indemnities will support implementation of the Fair Hydro Plan.

The Treasury Board Assessment Note of June 13, 2017, included reference to the indemnities required by OPG and IESO.

Other protections and assurances are currently being discussed under a *Provincial Support Agreement* that would include indemnities for the Financing Entity against claims from creditors as a result of government amending or repealing the Act or court rulings adversely affecting the rights and interest of the Financing Entity and performance assurances from the Province for the IESO and electricity vendors.

DESCRIPTION OF RISK AND RISK MITIGATION

The ONFHP is a novel program, and as a financing structure it is the first of its kind in Canada. Because the work to be undertaken by OPG (and OPG's subsidiaries where applicable) and IESO in carrying out their roles in implementing the ONFHP will fall outside of the usual operations/business risk that these corporations face, there is a risk that these corporations may be subject to increased liability specifically due to their roles with the ONFHP. This risk arises in part because of the kind of market that OPG, and IESO indirectly, are to participate in, and the steps that investors could take to protect their investments (see further details on risks in Appendix A).

The exact nature and scope of the risk to the Province of giving the Indemnities is undeterminable at this time, but the risk of liability for the Province arising may be low, with respect to directors, officers and employees, as any such risk may be mitigated by the following factors:

- In the case of the IESO, the existence of a statutory immunity under subsection 19(1) of the *Electricity Act, 1998* may mitigate against a liability arising against its directors, officers and employees, but does not eliminate such risk.
- In the case of OPG, the proposed statutory immunity under subsection 39(1) of the *Act* may mitigate against a liability arising against its employees, but does not eliminate such risk.
- The Indemnities are limited to claims arising in relation to the Protected Persons' respective roles in relation to implementing the ONFHP.
- The Indemnities do not apply with respect to Losses for which coverage is provided under insurance, to the extent already paid under such insurance.
- The Indemnities do not apply to Losses that are a result of the Protected Person's dishonesty, gross negligence or wilful misconduct.

Although there is a provision in the Indemnity Agreements that provides that a claim relating to the OFHP should initially be made on any indemnity that is already in place from the IESO or OPG for the benefit of their respective directors, officers or employees before making a claim on the Province's indemnity, if the IESO or OPG suffer a loss because they have indemnified such director, officer or employee they would be able to make a claim under an Indemnity Agreement. Thus, the Province would, to the extent such a claim was not covered by an insurance policy, be liable for such a loss of the IESO or OPG.

With respect to the corporations themselves (and in the case of OPG, its Subsidiaries as well) the risk may be higher, but is undeterminable at this time. The likelihood of risk to the Province is characterized as medium, given that OPG and IESO have not identified any insurance or indemnities that would cover the corporations themselves (or in the case of OPG, the Subsidiaries themselves) in the event that such liability arises, nor is statutory protection provided for the corporations themselves.

BACKGROUND

On March 2, 2017, the government announced Ontario's Fair Hydro Plan (the "OFHP"), under which the government will take steps to lower electricity bills [on an after-tax basis] by 25 per cent on average for a typical residential customer, starting July 1, 2017, relative to what the bills would otherwise have been without the OFHP.

Changes to refinance a portion of the Global Adjustment ("GA") are a component of the 25 per cent rate relief under the OFHP. This includes roles for both IESO and OPG:

IESO – legislation imposes certain obligations and requirements on IESO to carry out various activities to implement the OFHP such as the creation of a regulatory asset in relation to deferred costs and the GA financing component of the OFHP, the conveyance of that asset to a financing entity (expected to be established by OPG) and providing a servicing role in recovering the financing entity's funding costs from future ratepayers. IESO may also be required to play a role in potential securities offerings of OPG's financing entity. This may come with heightened exposure to liability for the IESO.

OPG – OPG is expected to finance the purchase of the regulatory asset, related to deferred costs, through a financing entity that OPG creates. OPG considers risks associated with these OFHP-related activities to be beyond OPG's usual business/operations. This is particularly true with respect to any securities offerings of OPG's financing entity. Products are expected to be offered into the Canadian and U.S. Markets. As a result, pre-existing indemnities and protections do not adequately protect OPG, its directors, officers and employees.

The 25 per cent rate relief also includes the rebate amount equivalent to the 8 per cent Provincial portion of the HST that has been in effect since January 1, 2017 under the Ontario Rebate for Electricity Consumers Act, 2016, and the expected savings from the shifting of the Ontario Electricity Support Program ("OESP") and the Rural or Remote Rate Protection program ("RRRP") costs from ratepayers to being funded by the Province.

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With inputs from: Office of Provincial Controller Division, Treasury Board Secretariat, Ministry of Energy

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APPENDIX A

Potential Risks Related to OPG/IESO Roles in Implementing the Ontario Fair Hydro Plan

OPG – Role in Implementation of ONFHP and Associated Risks

The *Electricity Act, 1998* ("EA") has been amended to contemplate that OPG's objects include those related to the ONFHP. This amendment was designed to ensure that OPG could participate in the ONFHP. OPG will play a central role in the implementation of the ONFHP, particularly with respect to the implementation of the GA refinancing component of the ONFHP. As part of the ONFHP, it was announced that a portion of the GA will be refinanced in order to fairly allocate costs across present and future generations of electricity consumers with respect to investments made to decarbonize (i.e., phase-out coal) and modernize Ontario's electricity system (i.e., build and maintain a reliable electricity system). This would result in a deferred GA amount that a special purpose entity created by OPG (i.e. a financing entity as defined in the *Act*) is expected to finance.

In carrying out this role, OPG will be carrying out activities that fall outside of its typical business activities and corporate mandate relating to power generation. As a result, OPG, its directors, officers, and employees may be faced with increased risk of liability. Examples of such risks related to financing, include without limitation:

- liability as a promoter under Canadian securities laws (or the equivalent, if any, under other applicable securities laws);
- secondary market liability under Canadian and/or other applicable securities laws;
- liability the signatories to the prospectuses will have (i.e., the individuals signing the prospectus); and
- liability of OPG as the Financial Services Manager under any of the transaction agreements (e.g., the Financial Services Management Agreement, the Administration Agreement, the MSSA, the Master Trust Indenture and any Supplemental Indentures).

OPG and its Subsidiaries, and their respective directors, officers, employees may also be faced with risk of liability to:

- underwriters/agents selling debt securities of the financing entities
- the purchasers of debt securities of the financing entities (both initial purchasers and subsequent purchasers of the debt securities in the secondary markets)
- counterparties to agreements (e.g. the trustee of a financing entity that is a trust or IESO)
- other stakeholders (the Province, as shareholder of OPG, pensioners, and employees) of OPG if OPG (or any Subsidiary of it) is liable for any claim or obligation and cannot meet its obligations to these stakeholders as a result of such claims.
- Regulators (e.g. the Ontario Securities Commission)

- Parties who may challenge the *Act* or any component of it and include OPG as a party to such challenge.

As a result, pre-existing indemnities and protections do not adequately protect OPG, its Subsidiaries and each of their respective directors, officers and employees as explained further below.

Providing the requested Indemnity would help facilitate OPG and OPG's Subsidiaries in undertaking their role with respect to the implementation of the ONFHP.

IESO – *Role in Implementation of ONFHP and Associated Risks*

The *Act* also imposes certain obligations and requirements on the IESO to carry out various activities in relation to the implementation of the ONFHP such as the deferral of costs related to the GA, the creation of a regulatory asset in relation to the GA financing component of the ONFHP, the conveyance of that asset to OPG's financing entities and providing a servicing role in recovering OPG's funding costs from future ratepayers. The IESO may also be required to play a role in potential securities offerings of OPG's financing entities. If so, this may come with heightened exposure to liability for the IESO, particularly for offerings into the U.S. market. The IESO has expressed concern that all of this drives an increased risk of liability to the IESO, its directors, officers and employees, which is over and above typical operations risks and arises solely due to the ONFHP.

Other examples of sources/activities giving rise to increased risk of liability for the IESO, its directors, officers and employees include the following:

- Investors in any ONFHP investments or underwriters and banks regarding the offering of the investment asset to investors, as well as any securities prospectus or underwriting arrangements, with the IESO named and/or IESO being involved;
- OPG (or the financing entity) in relation to the commercial arrangements regarding transfer of the regulatory asset and servicing of the investment asset, and related activities;
- Market participants, program participants for issues in liquidity (e.g. short pay);
- Taxation authorities where prior approval of IESO's treatment is not approved by taxation authorities;
- Securities commissions regulators (U.S./Canada); and
- Parties who may challenge the *Act* or any component of it and include the IESO as a party to such challenge.

As a result, pre-existing indemnities and protections do not adequately protect IESO and each of their respective directors, officers and employees as explained further below.

Providing the requested Indemnity would help facilitate the IESO's undertaking of the activities requested by the Province in order to facilitate the implementation of the ONFHP.

APPENDIX B

Why Indemnities are being sought and limitations to protection under statutory protections and/or Insurance

Indemnities are required to facilitate IESO and OPG in carrying out their respective roles in implementing the ONFHP

The provision of the Indemnities is required in order to facilitate the implementation of the ONFHP. Both OPG and the IESO are required to carry out activities that may fall outside the scope of their typical business activities and corporate mandate. As a result, these activities could be perceived as not being carried out in "good faith" or in the best interest of the corporation thereby exposing OPG, OPG's Subsidiaries, IESO, and their respective directors, officers and employees to increased liability.

Even if the corporate mandates of OPG and the IESO were updated to include their role in implementing the ONFHP, this may not eliminate the risk of the types of liabilities outlined above completely, particularly due to the novelty of the ONFHP and the types of roles that OPG and IESO will be taking on. For example, persons could still challenge the *Act* or any component of it and include OPG or the IESO as a party to such challenge.

While statutory protection from liability is provided to IESO's directors, officers and employees, and to OPG's employees these protections are limited to "good faith acts". Therefore, the statutory protections do not preclude persons from bringing a claim against the Protected Persons (as defined in the Indemnities) in relation to these activities on the grounds of "bad faith". Generally speaking the Indemnities are intended to provide the Protected Persons with indemnification for losses/liabilities, including those for potentially "bad faith acts", unless any such acts arise as a result of the Protected Persons' dishonesty, gross negligence, or wilful misconduct. As described below in subsection (ii), the statutory protections also do not indemnify for costs relating to defending a claim. The statutory protections also do not extend to the corporations themselves.

Both the IESO and OPG have specifically asked for these Indemnities in order to allow them to carry out their roles in implementing the ONFHP. Providing the requested Indemnities will provide OPG, OPG's Subsidiaries, the IESO and each of their respective directors, officers and employees with assurance against liability in order to allow them to comprehensively carry out their respective roles in the successful implementation of the ONFHP.

Statutory Immunity does not preclude a person from bringing an action or other civil proceeding

Subsection 19(1) of the *Electricity Act, 1998* provides IESO directors, officers and employees with the following protection from liability:

"No action or other civil proceeding shall be commenced against a director, officer, employee or agent of the IESO or a member of a committee or panel established by the board of directors of the IESO for any act done in good faith in the exercise or performance or the intended exercise or performance of a power or duty under any Act, the regulations under any Act, the IESO's licence, the IESO's by-laws or the market rules, or for any neglect or default in the exercise or performance in good faith of such a power or duty."

The *Electricity Act, 1998* does not contain a similar statutory immunity for OPG's directors, officers, employees or agents. However, under subsection 39(1) of the *Act*, a statutory immunity is provided to the OPG's employees. This provision states:

"No action or other civil proceeding shall be commenced against any employee of the Province or Ontario Power Generation Inc. for any act done in good faith in the exercise or performance or the intended exercise or performance of a power or duty under the Act, the regulations or for any alleged neglect or default in the exercise or performance in good faith of such a power or duty."

Subsection 39(2) of the Act provides that nothing in subsection 39(1) limits the effect of subsection 19(1) of the *Electricity Act, 1998.*

The statutory immunities provided under the *Electricity Act, 1998* and the *Act* prohibit an action or other civil proceeding from being commenced against the enumerated persons for any act done in good faith in the exercise or performance of their duties. However, nothing precludes a person from bringing an action or other civil proceeding against these persons causing them to incur costs in defending the claim (for example, arguing that the act was not carried out in "good faith").

The immunity from suit provisions outlined above, are qualified by the words "for any act done in good faith in the exercise or performance or intended exercise or performance of a power or duty under this Act…" This is a question of fact that needs to be considered by a court of competent jurisdiction. As such, statutory immunity would not necessarily be a bar to litigation and does not ensure that the IESO's and OPG's employees, officer or directors (as applicable) would not become embroiled in litigation.

In the case of OPG, there is no similar statutory immunity explicitly provided for its directors, or officers so the risk of litigation is greater for these individuals.

For the reasons mentioned above, the Indemnities requested under this application would ensure that if a claim is brought against the Protected Persons as a result of carrying out their roles in implementing the ONFHP, they are fully protected for any costs, losses etc. subject to the limitations provided for in the Indemnities.

Insurance and indemnities that the IESO and OPG currently provide to its directors, officers and employees may not fully cover risk

OPG –Insurance and Indemnities

Currently, OPG has indicated that it maintains Directors and Officers liability insurance ("D&O Insurance") with limits of USD $110 Million. The D&O Insurance includes persona coverage (side A) and corporate reimbursement coverage (side B). Under the side A coverage, OPG has advised that the policy pays losses where the organization is either not permitted by law or unable due to insolvency to indemnify the insured person under the policy (includes directors, officers and designated executives). This includes losses arising from a claim made during the policy period for a wrongful act (e.g. breach of duty, neglect, error, misstatement or omission) of such insured person. The full $110 Million limit is available for side A coverage.

Under side B coverage, OPG has advised that the policy reimburses the organization for losses incurred to indemnify an insured person under a D&O claim. The coverage is up to a maximum of USD $75 million, less the corporate deductible of $500,000.

OPG has advised that directors and officers have priority of payments over the organization for the entire $110M limit.

While this insurance provides coverage for directors and officers of OPG, there is no similar coverage provided for OPG's employees. Further, any liability stated over the maximum amounts would not be covered by the insurance policy. Pursuant to section 2(a) of the IESO Indemnity and section 3(a) of the OPG Indemnity, a Protected Person shall not be entitled to indemnification to the extent that coverage is provided under an insurance policy and such Protected Person is actually paid under such insurance policy.

OPG has indicated that they provide their directors an indemnity but not to their directors or employees. OPG has not provided information about the scope of this indemnity. However, the Indemnities provide that a Protected Person shall not be entitled to indemnification to the extent that other indemnities are already provided to a Protected Person to the extent that the Protected Person is actually so indemnified. This language is meant to ensure that the covered losses under the Indemnities will be covered by other applicable indemnities first, before being covered by this indemnity.

OPG has not provided any information about insurance coverage and indemnities that its subsidiaries provide to their directors, officers and employees.

IESO – Insurance and Indemnities

The IESO has informed that it carries Directors & Officers insurance providing a maximum $15 million limit and $200,000 retention per claim. Employees are also included in the definition of Individual Insureds. The IESO also carries Professional liability insurance providing a maximum $75 million limit.

Aside from indemnification arising by operation of common law for employees acting within the scope of their employment, the IESO has informed that it has provided formal indemnity as follows:

- IESO has provided an indemnity to its board members.
- There is an indemnity provided to members of the Society of Energy Professionals pursuant to their collective agreement, whose members form a subset of all employees at the IESO.

Existing Indemnities to OPG and IESO from the Province

Existing indemnities previously provided by the Province to OPG have been limited to specific directives provided to OPG by the Province (e.g., in connection with the Bruce Lease). Accordingly, the scope of the existing indemnities provided by the Province would not cover the ONFHP. We are not aware of any indemnities provided to the IESO by the Province.