Fair Hydro Act, 2017

COMPENDIUM

The proposed Bill, the *Fair Hydro Act, 2017*, if enacted, would enact the *Ontario Fair Hydro Plan Act, 2017* and amend various Acts according to the provisions of Schedules 1 and 2 set out in greater detail below.

Schedule 1
Ontario Fair Hydro Plan Act, 2017

Schedule 1 enacts the *Ontario Fair Hydro Plan Act, 2017*. The Act establishes a framework under which the costs and benefits associated with the "clean energy initiative" are to be allocated among present and future consumers of electricity. The "clean energy initiative" describes the policies of the Government of Ontario related to fostering the development of a clean, modern and reliable electricity system.

Part I of the Act sets out the purposes of the Act and includes protections and assurances related to investor interests.

Under Part II of the Act, the Ontario Energy Board is required to determine reduced electricity rates that would achieve a 25% reduction in monthly invoice amounts from July 1, 2017 to April 30, 2018 for a hypothetical "regulated rate consumer" who meets prescribed criteria. The methodology to be applied by the Ontario Energy Board to determine electricity rates after April 30, 2018 would be prescribed by regulations.

Part III of the Act requires "specified consumers" to pay an amount in respect of the "clean energy adjustment". The clean energy adjustment is determined by the Financial Services Manager in accordance with rules set out in the Act and the regulations. Part III also specifies the roles and responsibilities of electricity vendors and the Independent Electricity System Operator ("IESO") with respect to the collection and remittance of amounts in respect of the clean energy adjustment.

Part IV of the Act requires the Minister of Energy to calculate a "fair allocation amount" by taking specified steps in accordance with principles and assumptions set out in the Act. The purpose of calculating the fair allocation amount is to measure and allocate the estimated clean energy costs and estimated clean energy benefits fairly among specified consumers.

Also under Part IV, Ontario Power Generation Inc. is appointed as the Financial Services Manager. The Financial Services Manager is required to prepare a written "Financing Plan" to evaluate whether potential funding obligations should be incurred to acquire and finance investment assets (under Part V). Constraints are placed on incurring funding obligations that would result in amounts becoming payable in respect of the clean energy adjustment from July 1, 2017 to April 30, 2021. In accordance with the Financing Plan, the Financial Services Manager may establish financing entities that may incur funding obligations.

Part V of the Act requires the IESO to determine the “IESO deferral” in accordance with the regulations and to establish and maintain a variance account in which it records the IESO deferral for each month. The balance in the variance account becomes a “regulatory asset”, which the IESO has the right to recover from specified consumers through rates set by the Ontario Energy Board. The IESO is authorized to transfer a specified portion of the regulatory asset to a financing entity. The transfer results in the financing entity acquiring a corresponding “investment interest”. The Act sets out various rules respecting the validity and priority of such a transfer.

In Part VI, the Act provides various rules in respect of the “investment asset” created by the transfer under Part V of a specified portion of the regulatory asset. Part VI provides that the investment asset constitutes a current and irrevocable property right and interest, consisting collectively of various specified rights and interests of investment interest owners. The Act also includes rules respecting the validity and priority of transfers of investment interests and the granting of a security interest in an investment interest by an investment interest owner.

Part VII deals with various administrative and miscellaneous matters, including regulation-making authority of the Lieutenant Governor in Council.

Part VIII includes consequential amendments to the *Electricity Act, 1998* and the *Ontario Energy Board Act, 1999* to address various matters relating to the enactment of the new Act.

Schedule 2
Amendments to the Ontario Energy Board Act, 1998

Schedule 2 amends the *Ontario Energy Board Act, 1998*.

Section 79 of the Act is amended so that the rate protection provided to certain classes of rural or remote rate protected (RRRP) consumers may be funded out of money appropriated by the Legislature, rather than by consumers. Consumers would still be required to fund the remaining portion of RRRP not funded through appropriations.

Section 79.2 of the Act, which governs the Ontario Electricity Support Program (OESP), is repealed and replaced on a date to be named by proclamation of the LGIC. Once s.79.2 is proclaimed, the program would be continued, but will be funded out of money appropriated by the Legislature after the variance account maintained by the IESO is exhausted, rather than by consumers. There are provisions relating to the sharing, use and disclosure of information relating to the administration of the OESP.

New provisions are created in the Act to establish programs to provide rate protection to certain distribution rate-protected residential consumers and a delivery credit to on-reserve consumers.

The Schedule also contains various amendments of a technical and administrative nature to support the implementation and oversight of these programs including provisions related to auditing, record-keeping, inspections and inquiries, offences and penalties.

The Schedule contains regulation-making authority in order to specify the details required to implement the various government-funded.