

**Office of
Legislative Counsel**

Suite 3600, Whitney Block
99 Wellesley Street West
Queen's Park
Toronto Ontario M7A 1A2

Tel (416) 326-2841
Fax (416) 326-2806

**Bureau des
conseillers législatifs**

Bureau 3600, Édifice Whitney
99, rue Wellesley ouest
Queen's Park
Toronto (Ontario) M7A 1A2

Tél. (416) 326-2841
Télécopieur (416) 326-2806



Date : June 9, 2017

Re : ENE
Proposed regulation under the Ontario Fair Hydro Plan Act, 2017

FAIR ADJUSTMENT UNDER PART II OF THE ACT
reg2017.0246.e09

This proposed regulation has been sealed under the authority of the Registrar of Regulations.





Executive Council
Conseil exécutif

Order in Council Décret

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and concurrence of the Executive Council, orders that:

Sur la recommandation de la personne soussignée, la lieutenant-gouverneure, sur l'avis et avec le consentement du Conseil exécutif, décrète ce qui suit :

the appended Regulation be made under the
Ontario Fair Hydro Plan Act, 2017.

Recommended _____
Minister of Energy

Concurred _____
Chair of Cabinet

Approved and Ordered _____
Date

Lieutenant Governor

R.O.C./Décret (R)

Date : June 9, 2017

Re : ENE

Proposed regulation under the Ontario Fair Hydro Plan Act, 2017

FAIR ADJUSTMENT UNDER PART II OF THE ACT

Reg2017.0246.e09

This appended regulation has been sealed under the authority of the Registrar of Regulations.



Authority Verified
Compétence vérifiée _____

Please print name
Nom en lettres
moulées s.v.p. _____

Telephone
Téléphone _____

Recommended by the
Management Board of Cabinet on
Recommandé par le Conseil de
gestion du gouvernement le _____

Secretary
Secrétaire _____

CONFIDENTIAL
Until filed with the
Registrar of Regulations

REG2017.0246.e
9-TP

ONTARIO REGULATION

made under the

ONTARIO FAIR HYDRO PLAN ACT, 2017

FAIR ADJUSTMENT UNDER PART II OF THE ACT

Interpretation

1. (1) In this Regulation,

“billing period” means a period of time in respect of which an invoice for electricity is issued by an electricity vendor, a specified consumer or a unit sub-meter provider providing unit sub-metering for a specified consumer;

“Ontario Consumer Price Index” means, for a 12-month period, the Consumer Price Index for Ontario (All-Items) as reported monthly by Statistics Canada under the authority of the *Statistics Act* (Canada), averaged over the 12-month period;

“Toronto Hydro” means Toronto Hydro-Electric System Limited;

“Total Invoice Amount A” means the total invoice amount described in subsection (2);

“Total Invoice Amount B” means the total invoice amount described in subsection (3);

“Total Invoice Amount C” means the total invoice amount described in subsection (4).

(2) Total Invoice Amount A consists of the following types of amounts that would be invoiced in respect of a billing period to a hypothetical regulated rate consumer who meets the criteria set out in section 2:

1. The commodity price of the electricity, as determined under the comparison rates described in subsection 7 (3) of the Act.

2. The rates and charges as of May 1, 2017 as set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*, except for the rates and charges related to any rural or remote rate protection compensation required under subsection 79 (4) of the *Ontario Energy Board Act, 1998* or any compensation required under subsection 79.2 (10) of that Act.
3. The rates and charges as of April 30, 2017 as set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*, related to any rural or remote rate protection compensation required under subsection 79 (4) of the *Ontario Energy Board Act, 1998* or any compensation required under subsection 79.2 (10) of that Act.
4. The amount of any harmonized sales tax payable by the consumer under Part IX of the *Excise Tax Act* (Canada) in respect of the amounts mentioned in paragraphs 1, 2 and 3.

(3) Total Invoice Amount B consists of the following types of amounts that would be invoiced in respect of a billing period to a hypothetical regulated rate consumer who meets the criteria set out in section 2:

1. The commodity price of the electricity, as determined under the rates determined in accordance with section 3.
2. The rates and charges as of May 1, 2017 as set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*, except for the rates and charges related to any rural or remote rate protection compensation required under subsection 79 (4) of that Act.
3. The rates and charges as of July 1, 2017 as set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*, related to any rural or remote rate protection compensation required under subsection 79 (4) of that Act.
4. The amount of any harmonized sales tax payable by the consumer under Part IX of the *Excise Tax Act* (Canada) in respect of the amounts mentioned in paragraphs 1, 2 and 3.

(4) Total Invoice Amount C consists of the following types of amounts that would be invoiced in respect of a billing period to a hypothetical regulated rate consumer who meets the criteria set out in section 2:

1. The commodity price of the electricity, as determined under the rates determined in accordance with subsection 5 (1).

2. The rates and charges as of May 1, 2018 as set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*.
3. The amount of any harmonized sales tax payable by the consumer under Part IX of the *Excise Tax Act* (Canada) in respect of the amounts mentioned in paragraphs 1 and 2.

(5) The following types of amounts shall be excluded from Total Invoice Amount A, Total Invoice Amount B and Total Invoice Amount C:

1. The balance of any amounts carried forward from previous invoices in respect of previous invoice periods.
2. Penalties or interest.
3. Charges that do not relate to the consumption of electricity.
4. Any of the following charges that may be set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*:
 - i. A fixed monthly service charge payable by a generation facility within the meaning of section 56 of the *Ontario Energy Board Act, 1998* and classified as “microFIT”.
 - ii. A charge labelled as a “specific service charge” or “retail service charge”.
5. The amount of any harmonized sales tax payable by the consumer under Part IX of the *Excise Tax Act* (Canada) in respect of the amounts mentioned in paragraphs 1, 2, 3 and 4.

(6) The Board shall take into account any financial assistance under the *Ontario Rebate for Electricity Consumers Act, 2016* when determining Total Invoice Amount B and Total Invoice Amount C, but shall not do so when determining Total Invoice Amount A.

(7) For the purposes of making a determination under clause 11 (1) (a) of the Act, the rate of inflation is the percentage change between,

- (a) the value of the Ontario Consumer Price Index for the 12-month period immediately preceding the 12-month period described in clause (b), and
- (b) the value of the Ontario Consumer Price Index for the 12-month period ending on the last day of February immediately preceding the day on which the determination of the Board under clause 11 (1) (a) of the Act takes effect.

Hypothetical regulated rate consumer

2. For the purposes of subsection 7 (2) of the Act, a hypothetical regulated rate consumer meets the following criteria:

1. The consumer purchases electricity directly from Toronto Hydro.
2. The consumer has an account with Toronto Hydro that falls within the residential-service rate classification as specified in a rate order made by the Board under section 78 of the *Ontario Energy Board Act, 1998*.
3. The consumer's billing period is 30 days.
4. The consumer is not invoiced by Toronto Hydro for electricity on an equal monthly payment plan, an equal billing plan or a net metered basis.
5. The consumer is not a rate-assisted consumer within the meaning of section 79.2 of the *Ontario Energy Board Act, 1998*.
6. The consumer uses 750 kilowatt hours of electricity in each billing period.
7. The consumer's time-of-use consumption profile in each billing period is described as follows:
 - i. 65 per cent of the consumer's usage occurs during off-peak periods associated with the regulated price referred to as $RPEM_{OFF}$ in section 3.4 of the "Standard Supply Service Code for Electricity Distributors" issued by the Board.
 - ii. 17 per cent of the consumer's usage occurs during mid-peak periods associated with the regulated price referred to as $RPEM_{MID}$ in section 3.4 of the "Standard Supply Service Code for Electricity Distributors" issued by the Board.
 - iii. 18 per cent of the consumer's usage occurs during on-peak periods associated with the regulated price referred to as $RPEM_{ON}$ in section 3.4 of the "Standard Supply Service Code for Electricity Distributors" issued by the Board.

Regulated rate consumers, first fair adjustment under s. 7 of the Act

3. For the purposes of section 7 of the Act, the Board shall determine the rates that would, when applied for the purposes of determining the commodity price of the electricity included in Total Invoice Amount B, result in Total Invoice Amount B being 25 per cent less than Total Invoice Amount A.

Other specified consumers, first fair adjustment under s. 8 of the Act

4. (1) For the purposes of section 8 of the Act, the Board shall determine a dollar per megawatt hour amount that represents the difference between the following:

1. The comparison rates described in subsection 7 (3) of the Act.
2. The rates determined by the Board under section 3 of this Regulation.

(2) The adjustment to be applied by electricity vendors in respect of each billing period with respect to specified consumers who are not regulated rate consumers shall be determined as follows:

1. The electricity vendor shall multiply the dollar per megawatt hour amount determined by the Board under subsection (1) by the total volume of electricity consumed by the specified consumer during the billing period.
2. The electricity vendor shall deduct the amount determined under paragraph 1 from the amount otherwise payable by the specified consumer in respect of the billing period for adjustments made under section 25.33 of the *Electricity Act, 1998*.

(3) For the purposes of paragraph 1 of subsection (2), the total volume of electricity consumed by a specified consumer in a billing period shall be,

- (a) in the case of a specified consumer that is a market participant as defined in the *Electricity Act, 1998*, the net volume of electricity withdrawn from the IESO-controlled grid by the specified consumer during the billing period, as determined in accordance with the market rules made under section 32 of that Act; or
- (b) in any other case, the volume of electricity distributed to the specified consumer during the billing period by the electricity vendor, adjusted for total losses as defined in and in accordance with the Retail Settlement Code, issued by the Board under the *Ontario Energy Board Act, 1998*.

(4) For greater certainty, if the amount determined under paragraph 2 of subsection (2) in respect of a billing period is a negative amount, that amount shall be a credit for the specified consumer for that billing period.

Subsequent adjustments, regulated rate consumers, s. 11 (1) (a) of the Act

5. (1) For the purpose of determining the electricity rates payable by regulated rate consumers for the period beginning on May 1, 2018 and ending on April 30, 2019, the Board shall,

- (a) if the rate of inflation is a negative amount or is zero, determine electricity rates for regulated rate consumers in accordance with subsection (2); or

- (b) in any other case, determine electricity rates for regulated rate consumers in accordance with subsection (3).

(2) For the purposes of clause (1) (a), the Board shall determine the rates that would, when applied for the purposes of determining the commodity price of the electricity included in Total Invoice Amount C, result in Total Invoice Amount C being equal to Total Invoice Amount B.

(3) For the purposes of clause (1) (b), the Board shall determine the rates that would, when applied for the purposes of determining the commodity price of the electricity included in Total Invoice Amount C, result in Total Invoice Amount C being greater than Total Invoice Amount B by the rate of inflation.

Subsequent adjustments, other specified consumers, s. 11 (1) (b) of the Act

6. (1) For the purpose of determining adjustments to be applied in respect of specified consumers who are not regulated rate consumers for the period beginning on May 1, 2018 and ending on April 30, 2019, the Board shall determine a dollar per megawatt hour amount that represents the difference between the following:

1. The rates mentioned in subsection (4).
2. The rates determined by the Board under subsection 5 (1).

(2) The adjustment to be applied by electricity vendors in respect of each billing period for the period beginning on May 1, 2018 and ending on April 30, 2019 with respect to specified consumers who are not regulated rate consumers shall be determined as follows:

1. The electricity vendor shall multiply the dollar per megawatt hour amount determined by the Board under subsection (1) by the total volume of electricity consumed by the specified consumer during the billing period.
2. The electricity vendor shall deduct the amount determined under paragraph 1 from the amount otherwise payable by the specified consumer in respect of a billing period for adjustments made under section 25.33 of the *Electricity Act, 1998*.

(3) For the purposes of paragraph 1 of subsection (2), the total volume of the electricity consumed by a specified consumer in a billing period shall be,

- (a) in the case of a specified consumer that is a market participant as defined in the *Electricity Act, 1998*, the net volume of electricity withdrawn from the IESO-controlled grid by the specified consumer during the billing period, as determined in accordance with the market rules made under section 32 of that Act; or

- (b) in any other case, the volume of electricity distributed to the specified consumer during the billing period by the electricity vendor, adjusted for total losses as defined in and in accordance with the Retail Settlement Code issued by the Board under the *Ontario Energy Board Act, 1998*.

(4) The rates referred to in paragraph 1 of subsection (1) are the rates that would have been effective May 1, 2018 if they had been determined by the Board using the method prescribed by regulations made under clause 79.16 (1) (b) of the *Ontario Energy Board Act, 1998*, without taking into account any forecasted impact of any provision of the Act.

(5) For greater certainty, if the amount determined under paragraph 2 of subsection (2) in respect of a billing period is a negative amount, that amount shall be a credit for the specified consumer for that billing period.

Sub-metering

7. For the purposes of subsection 12 (2) of the Act, the amount payable for the electricity by the person who is liable to pay the invoice shall, in respect of each billing period, reflect the person's proportionate share of any determination of the Board under section 9 or 11 of the Act that applies to the invoice for electricity payable by the specified consumer.

Commencement

8. This Regulation comes into force on the day it is filed.