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NOTICE: THESE ARE INSTRUCTIONS FOR A DRAFT.

THE LANGUAGE USED IS SUBJECT TO CHANGE BASED ON DRAFTING REQUIREMENTS

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A PROPOSAL TO CREATE REGULATION

MADE UNDER THE

ONTARIO FAIR HYDRO PLAN ACT, 2017

Amending O. Reg. 206/17

(GENERAL)

Definition – Carrying costs

Please add a new definition for "carrying costs" to s.1(1) of O. Reg. 206/17 as follows:

"carrying costs" means, in respect of a financing entity for each month, without duplication, and subject to section 9.1. (3), the sum of:

(a) funding costs;

(b) financing entity expenses; and

(c) tax liabilities, net of tax refunds received during the period.

net of any payments in connection with a derivative agreement, including ordinary course receipts and payments received on termination.

[IESO prefers the definition above. It is simpler and avoids referring to a section of the regulation that relates to CEA recovery. References below may introduce confusion as they are under the heading CEA in the General O. Reg and the Act indicates CEA will not be collected until after April 30, 2021, There are also a few issues with the definition below.]

[ALTERNATIVE APPROACH TO DEFINITION FOR CARRYING COSTS]

"carrying costs" means, in respect of a financing entity for each month, without duplication, and subject to section 9.1. (3), the finance amount determined under section 5 in respect of each financing entity for the month *[period?]* calculated on a cash basis, excluding the following amounts:
[NTD: we believe the carrying costs to be funded should be on a cash basis, not accrual.]
[NTD: this was probably an oversight, but principal repayment is not excluded from this definition of carrying costs.]

(a) the amounts referred to in sub-sub paragraphs I, iii and iv of paragraph 1 of subsection 5(1)

the amounts referred to in sub-sub paragraph v of paragraph 1 of subsection 5(1) which are deposited to capital accounts ***[NTD: inclusion of funding of reserve accounts is challenging as it is not possible to know whether these accounts will be used to repay principal, and in fact likely will be.]***

(b)

(c) the amounts referred to in sub-sub paragraphs ii, iii and iv of paragraph 2 of subsection 5(1);

(d) the amounts referred to in sub-sub paragraph i of paragraph 2 of subsection 5(1) which are withdrawn from capital accounts

9.1 (1) During the period commencing January 1, 2018 and ending on or before April 30, 2021**,** the IESO shall be required to pay and remit the amounts provided for under subsection (2) to one or more financing entities, where such amounts are charged to the IESO by a financing entity in respect of the period commencing June 1, 2017 and ending on or before April 30, 2021.

(2) The IESO shall pay amounts determined, without duplication, in respect of carrying costs of financing entities during a month which are reported to the IESO by one or more financing entities. [NTD: the FSM charges will be invoiced by the FSM to the financing entity. The financing entity will then include the FSM charge as part of what it

needs to recover from the IESO in a month. Financing entity expenses in the first definition of “carrying costs” are included]

Retrospective to June 1, 2017

(3) For the purposes of recovering the costs mentioned in subsection (2), a financing entity may charge to the IESO any amounts which relate to those items that have been paid or incurred on or after June 1, 2017.

Information

(4) The IESO may rely on information provided by financing entities for the purposes of determining the amounts to be paid to one or more financing entities under this section and the IESO shall not be required to determine the accuracy or reasonableness of such amounts.

IESO Monthly deferral

Next, we need to amend s.16 by adding a new paragraph 3, as follows:

3. Any amounts paid or incurred by the IESO under section 9.1.