

RE: Re: Feedback & requirements for May 1 TB/MBC

From: "Fung, Felix (TBS)" <felix.fung@ontario.ca>
To: "Graham, Helen (TBS)" <helen.graham@ontario.ca>, "Strang, James (TBS)" <james.strang@ontario.ca>
Cc: "Skubel, Chris (TBS)" <chris.skubel@ontario.ca>
Date: Fri, 21 Apr 2017 20:30:02 -0400

Thanks Helen - let's raise this at our next weekly with Karen.

My feeling on this is whether the programs are entitlement programs. OREC is different - because it is entitlement and applies to everyone's bills. But programs like OESP, RRRP and FNORDC - are they considered to be entitlement programs (i.e. for OESP, if you apply and you fall into that bracket, do you then automatically get them?)

From: Graham, Helen (TBS)
Sent: April-21-17 3:34 PM
To: Fung, Felix (TBS); Strang, James (TBS)
Cc: Skubel, Chris (TBS)
Subject: RE: Re: Feedback & requirements for May 1 TB/MBC

Nick says the "shall" relates to 79.4(1)

The usual formulation would be to say the "Minister may pay", which allows the ability not to pay under circumstances where something changes – it is the usual formulation for most programs

Using the formulation "the Minister shall" is used occasionally, for example for ODSP which is an entitlement program in nature (ie it is openended – all eligible people get their payments), and it has the nature of requiring the government actually to make the payment, therefore from an accounting point of view requiring govt to record it as payable/paid

So maybe the policy question is whether there is a view that program should run fully like an entitlement program. I think the issue of it being taxpayer funded isn't quite the point, it's more what is the nature of the program.

I would say this is an issue that someone (Maria? Karen?) should be aware of for the package as a whole? Maybe you feel we know where higher-ups feel this should land?

From: Fung, Felix (TBS)
Sent: April 21, 2017 3:08 PM
To: Strang, James (TBS); Graham, Helen (TBS)
Cc: Skubel, Chris (TBS)
Subject: FW: Re: Feedback & requirements for May 1 TB/MBC

FYI

From: Chander, Sunita (ENERGY)
Sent: April-21-17 1:56 PM
To: Fung, Felix (TBS)
Cc: Smith, Mike (ENERGY); Smith, Brett (ENERGY)
Subject: RE: Re: Feedback & requirements for May 1 TB/MBC

Hi Felix, thanks for the chat yesterday. As promised attached is the latest draft legislation.

I also wanted to ask whether you've been talking to your legal about this? Nick Smook from TBS legal, is who our legal counterparts have been talking to.

The legislation is in pretty good shape, there are still some outstanding pieces we need to still review and consider as we get input from various parties. The one item our legal has flagged is in the comments coming from TBS legal is in the usage of 'shall' in the legislation related to the program administration. As you are more than aware, there is a strong desire to ensure that there are is no grey or uncertainty as to whether individuals will receive their rebates, especially on something like the OESP. We have been given fairly explicit direction in the Cabinet and TBS minute to make these programs taxbased. Additionally, we have the 8% legislation as 'shall' and I can't imagine a significant undertaking like the Fair Hydro Plan would be anything less.

Let me know if you'd like to chat
-Sunita

<< File: External Consultation Draft 3 -Social Programs -(Fair Hydro Financing Plan Act) (April 18 2017) Consultation v4.docx >>

Sunita Chander
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Strategic, Network and Agency Policy Division
Ministry of Energy

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-----Original Appointment-----

From: Chander, Sunita (ENERGY)
Sent: April 17, 2017 10:38 PM
To: Chander, Sunita (ENERGY); Fung, Felix (TBS); Graham, Helen (TBS); Sawosch, Mercedes (TBS); Strang, James (TBS); Skubel, Chris (TBS); Hosick, Sarah (TBS); Arbabzadeh, Nina (TBS)
Cc: Smith, Brett (ENERGY); Smith, Mike (ENERGY); Wuschnakowski, Gary (TBS); Duran-Schneider, Maria (TBS); Marcos, Helder (TBS); Goralski, Violetta (TBS); Hindmarch-Watson, Tim (CAB); Proulx, Didem (TBS); Ng, Sandy (TBS)

Subject: Re: Feedback & requirements for May 1 TB/MBC
When: April 20, 2017 4:30 PM-5:15 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Energy-R-77 Grenville-6A

From: Chander, Sunita (ENERGY)
Sent: April 13, 2017 7:04 PM
To: Fung, Felix (TBS); Reid, Michael (ENERGY)
Cc: Graham, Helen (TBS); Sawosch, Mercedes (TBS); Strang, James (TBS); Skubel, Chris (TBS); Hosick, Sarah (TBS); Arbabzadeh, Nina (TBS)

Subject: Re: Feedback & requirements for May 1 TB/MBC

Sure, will setup for 1-2 on Tuesday.

Have a nice weekend

Sent from my BlackBerry
From: Fung, Felix (TBS)
Sent: Thursday, April 13, 2017 6:18 PM
To: Chander, Sunita (ENERGY); Reid, Michael (ENERGY)
Cc: Graham, Helen (TBS); Sawosch, Mercedes (TBS); Strang, James (TBS); Skubel, Chris (TBS); Hosick, Sarah (TBS); Arbabzadeh, Nina (TBS)
Subject: RE: Feedback & requirements for May 1 TB/MBC

Thanks Sunita, happy to chat but unfortunately most of us have a conflict on Tuesday morning. Can we try Tuesday afternoon before 2:30 pm or Wednesday morning?

Thanks,
Felix

From: Chander, Sunita (ENERGY)
Sent: April-13-17 5:04 PM
To: Fung, Felix (TBS); Reid, Michael (ENERGY)
Cc: Graham, Helen (TBS); Sawosch, Mercedes (TBS); Strang, James (TBS); Skubel, Chris (TBS); Hosick, Sarah (TBS); Arbabzadeh, Nina (TBS)
Subject: RE: Feedback & requirements for May 1 TB/MBC

Hi Felix, why don't we setup a meeting Tuesday from 10:30 to 11:30 so we can walk you through the legislation and the programs generally. We are happy to host.

FYI the legislation will be sealed early next week

Thanks, and looking forward the discussion.

–Sunita

Sunita Chander

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Email: sunita.chander@ontario.ca

From: Fung, Felix (TBS)

Sent: April 13, 2017 11:50 AM

To: Reid, Michael (ENERGY) ; Chander, Sunita (ENERGY)

Cc: Graham, Helen (TBS) ; Sawosch, Mercedes (TBS) ; Strang, James (TBS) ; Skubel, Chris (TBS) ; Hosick, Sarah (TBS) ; Arbabzadeh, Nina (TBS)

Subject: Feedback & requirements for May 1 TB/MBC

Hi Michael and Sunita,

We 've had internal discussion here with Karen Hughes, OPCD and our legal folks. Below is feedback on draft leg as well as requirements for May 1 TB/MBC.

- For May 1, 2017, Energy needs to submit a complete TB/MBC signed submission as soon as possible. Energy should be providing a full package of documentation including financial, accounting, and legal assessments covering GA smoothing and support programs (including the affordability fund) moving to government funding.

- Re: proposed legislation, there seems to be separate GA smoothing legislation from legislation for moving support programs recovering from ratepayers to being government funded programs. Will this remain the case or will they be combined into one package?
- To understand what Energy is trying to accomplish with its proposed legislation. Sharing supporting briefing materials even if draft would be helpful. For example:
 - Do the programs moving to government funded need to be consistent with requirements of typical government funded programs?
 - If so, what needs to change, what needs to drop/be added etc.
 - Should all programs have the same treatment? For existing programs determine if existing admin model continues or is it replaced?
 - Materials should include dollar forecast profile of runoff of the IESO variance balance.
 - What is Energy trying to achieve with its provisions, such as, for settlement, overpayment (applying to non-public monies first/ getting public monies back), deemed debt retirement charge (is this known to OFA/OEFC). Terminology (e.g., "settlements") definitions would be helpful.
 - Clarify whether Section 79 of the Ontario Energy Board Act is the RRRP program? If it is, why just amending with adding sections only, not repealing and replacing as with OESP?
- Would be helpful if Energy could explain how changes are related to future payments coming from the province (if not explained in briefing material)
- Appears aspects needed to frame future program as being supported from tax base have been brought over from other legislation, though there's uncertainty around whether all provisions are relevant/appropriate to rate base/tax base transition. Drafting needs to be checked against needs for the administration of public money vs funding from the rate base (which is not public money).
- Which part of MOF has agreed to take on duties that would be assigned to them by the draft legislation, including those with respect to audit powers, records retention, inspections/enforcement, overpayments etc

Is there an expectation at Energy that the provisions create a foundation for an accounting obligation on the province? AR for the province?

Thanks – let us know if it would be helpful to set up a meeting to discuss this further.

Felix

Felix Fung

Manager, Resources Portfolio

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