Ontario

MINISTRY OF
ENERGY

First Nations Delivery Credit (FNDC)

May 2017

OEB Report Recommendation Summary

- In response to the Minister's June 2016 letter, the OEB provided its report on options for a First Nations Rate in December 2016. The report recommended:
  - Eliminate the delivery charge for all on-reserve First Nations residential customers and eliminate the monthly service charge for customers of licensed distributors which charge a bundled rate;
  - Automatically qualify on-reserve First Nations residential customers (~21,500 customers).
  - Enable greater information sharing between distributors and band councils to identify all on-reserve First Nations customers.
  - Continue to provide assistance through OESP and LEAP to eligible on-reserve First Nations customers.
- The report did not identify a mechanism to include on-reserve First Nations residential customers served by unlicensed distributors (i.e. Independent Power Authorities (IPAs)), but indicated that the issue warranted further exploration.
- The OEB suggested the program should be funded from the tax base as it is targeted to a particular segment of the provincial population, or, if rate based, to use a province-wide charge.
- The Ministry plans to launch the program on July 1st.
  - These working groups have identified implementation risks that ENERGY must consider in order not to jeopardize July 1 roll-out.

Program Design

- The Ministry has used the OEB's report to develop its proposal for a First Nations Delivery Credit (FNDC), which was announced as part of Ontario's Fair Hydro Plan.
- ENERGY established two separate workings groups, one for affected LDCs and one with the Chiefs of Ontario to discuss and identify implementation risks and considerations.
  - The working groups are on-going. The LDC WG met on March 24th and May 4th; COO WG met on April 26th and May 11th.
- ENERGY will continue to engage all affected parties leading up to the program roll-out.

Policy Rationale: FNDC is intended to help alleviate some of the economic challenges that on-reserve First Nations people face, and to acknowledge the First Nations' historic contribution to the development of the electricity infrastructure in Ontario.

Description:

- 100% delivery charge credit for on-reserve First Nation residential customers; and,
- Elimination of the monthly service charge for on-reserve First Nation residential customers of licensed distributors who pay a blended rate.

Funding: Indefinite, tax base funded program with annual costs of around $20 million with possible upward pressure over time due to increases in delivery charges.

Financial Mechanism: Direct rebate to LDCs administered by IESO.

Visibility: FNDC will appear as a specific line item on customer's electricity bills.

COO Working Group

- The COO Working Group held its first meeting on April 26th and COO's key messages were:
  - Focus on meeting the July 1, 2017 target date for removing the delivery charge for residential customers on-reserve, and deferring discussions on expanding the program to cover commercial and off-reserve customer to after initial implementation.
  - The Chiefs were informed of the tentative timeframes for public posting of legislation and did not raise any concerns.
  - The Chiefs strongly preferred the program to be delivered to First Nations people on reserve rather than all residential customers on reserve.
  - They see the implementation of the delivery credit as a recognition of a right that should only be exercised by status band members of the First Nation. Having non-Indigenous people who reside on a reserve, such as seasonal cottage owners, benefit from the delivery credit would cause social and political tensions within the communities.
- The Chiefs Committee on Energy provided an update on the implementation of the FNDC at the Special Chiefs Assembly in Gatineau on May 2nd to 3rd
  - The Chiefs in Assembly supported the implementation date of July 1st with the focus being on residential customers only.
  - The Chiefs encouraged COO to continue pursuing opportunities to have the FNDC expanded to include Band owned building and off-reserve First Nations post July 1st
  - COO will update as required at the annual All Ontario Chiefs Conference (AOCC) being held in Lac Seul First Nation on June 13, 14 & 15, 2017.

Proposed FNDC Postcard

- The Ministry has developed draft content for the FNDC Postcard and would like to share with COO for their review and feedback. The draft content is as follows:

FNDC Considerations – Timing, Display, Communications, Eligible lands

Timing

- COO was pleased with the speed at which the program is being implemented and encouraged keeping the approach as simple as is possible.
- LDCs are focused on making the program implementable for July 1st if based on all-residential customers. If limited to band members, those who have registered status with LDC will receive as of July 1st with others enrolled as processes established. Clarity on eligibility approach (see next slides) required as soon as possible to avoid implementation delays.

Display

- Chiefs would like to see the delivery credit on the bill but were otherwise not too concerned as long the delivery credit was eliminated.
- LDCs prefer a line item credit on the bill as that is easiest for billing system upgrades. For some LDCs this is the only feasible option.

Communications

- Chiefs identified the need to get communication materials out to communities to provide accurate information about the program to clear up misinformation that is currently circulating
  - A FNDC information brochure will developed with COO and co-branded with ENERGY
  - LDCS are willing to work with band councils and Ministry in communication of program.

Eligible Lands

- On-reserve will be defined in the regulation and the Chiefs would prefer to see flexibility in how “reserve” is defined to accommodate lands in the ‘Additions to Reserve’ (ATR) process, lands that were not surrendered, future lands awarded in claims processes, and future development of urban reserves. They are willing to defer discussion of this expansion to post-July 1st.

FNDC Considerations - Eligible Customers

- There was discussion with COO on customer eligibility and the Chiefs indicated that:
  - The First Nation Delivery Credit should apply only for customers who reside on-reserve and are band members of the First Nation.
  - The Chiefs proposed to automatically migrate First Nation customers who are currently registered as GST and DRC exempt with an LDC.
  - Further considerations on options will be needed to determine approaches to include Band members who are not currently registered for the GST and DRC exemption who reside on-reserve.
  - COO will hold-off on pursuing discussions to include Band owned buildings such administration buildings, seniors centres, schools etc. as well as off-reserve First Nation band members to post July 1st.
- A discussion with the affected LDCs was subsequently had to discuss some of the feedback from COO:
  - Preference would be to provide to all on-reserve residential customers for ease of identification.
  - Limiting to band members raises implementation issues related to identification and audit protection. LDCs would need access to information sources sufficient to demonstrate eligibility as defined in regulation.
  - Not all FN customers have HST exemption registration status and LDCs will need to find a way to identify those customers who have fallen through the cracks.
  - This likely will involve collaboration between LDCs and band councils to share information which could create privacy concerns as to the collection and retention of personal information.
  - Offered exclusion of seasonal customers as a means to indirectly exclude most non-status customers (though some LDCs without seasonal rate classes cautioned on implementation concerns).

Next Steps

- The COO Working Group will hold a teleconference on May 11th to continue discussions and COO will present options for eligibility based on feedback received at the Special Chiefs meeting held on May 2nd and 3rd.
- The Ministry to share draft FNDC Postcard content with COO for their review and feedback ASAP.
- The regulatory posting for FNDC will be issued the week of May 15th following the introduction of legislation. Regulations will be drafted while the posting is open in order to proceed to June LRC.
- LDCs will be seeking clarity on eligibility criteria in May so as to prepare system appropriately for July 1st launch date.

Appendix

OEB Report: Background

- Through the First Nations-Ontario Political Accord and Canada's Truth and Reconciliation Commission's Calls to Action, there is a renewed spirit to work together on issues of mutual interest, including resource benefits sharing, the treaty relationship, and jurisdiction.
- First Nation and Political-Territorial Organization leaders have advocated for the review of delivery charges associated with transmission and distribution assets within the context of historical grievances and the need for electricity rate relief for on-reserve customers.
- The Minister committed to consider options for addressing the issue at the Apr. 18, 2016 First Nations-Ontario Energy Table meeting.
- In June 2016, pursuant to s.35 of the OEB Act, the Minister issued a letter directing the OEB to prepare a report providing "*advice on options for an appropriate electricity rate (or rate assistance) for on-reserve First Nations electricity consumers.*"
- In order to inform its report, the OEB engaged with First Nations, including remote communities, the distributors serving them, and consumer groups such as the Low Income Energy Network, in a series of meetings across the province. It also established an Advisory Committee with the Chiefs of Ontario's Grievance Committee.
- 48 First Nations attended meetings held in the Fall of 2016 in London, Couchiching, Sudbury, Toronto and Thunder Bay. The OEB also held sessions with Local Distribution Companies (LDCs) and consumer groups.
- The OEB provided its report to the minister on December 29, 2016.

Distributors Serving On-Reserve First Nation Customers[1]

Distributor	Number of On-Reserve Residential Customers
Algoma Power Inc.	473
Attawapiskat Power Corporation	336
Bluewater Power Distribution Corporation	237
Cat Lake Power Utility Ltd.	80
Cornwall Electric Distribution	514
Fort Albany Power Corporation	No Data Filed
Kashechewan Power Corporation	No Data Filed
Hydro One Networks Inc.	16,679
Hydro One Remote Communities Inc.	2,579
PUC Distribution Inc. (Sault Ste. Marie)	264
Thunder Bay Hydro Electricity Distribution	332
Total Number of Customers	**21,494**

[1]Data is based on distributors' reports to the OEB. Customer numbers for Hydro One reflect total on-reserve residential customer accounts, not all of which have been identified as First Nations customers for tax-exemption purposes. The total number of on-reserve First Nations residential accounts represents the maximum number of residential accounts that could be held by First Nations customers.

Source: OEB Report to Minister: Options for an Appropriate Rate Assistance Program for On-Reserve First Nations Electricity Consumers (Page 5)

First Nations Rate Assistance: Context

- On-reserve First Nations customers face unique challenges that impact electricity affordability, such as the poor quality of the housing stock on-reserve. These challenges result in significantly higher electricity consumption levels and costs.
- First Nations living on reserve are particularly vulnerable low-income consumers: the average income is considerably lower compared to First Nations living off reserve and compared to non-Indigenous populations*:
  - Average income of First Nations on reserve in Ontario: $21,100
  - Average income of First Nations off reserve in Ontario: $31,527
  - Average income of Non-Indigenous people in Ontario: $42,506*
  - Median incomes on smaller reserves can fall below $10,000 (e.g., Cat Lake FN).
- Employment rates also differ between on-reserve First Nations, off-reserve First Nations and Non-Indigenous individuals, as well as other indices of social vulnerability**:
  - 54% of Indigenous people over 15 years old and living on-reserve in Ontario are unemployed or not in the labour force.
  - The on-reserve unemployment rate is 18.3% compared to 6.4% in Ontario generally.
  - 67% of families residing on-reserve are single parent families, compared to the Canadian equivalent of 19%.

*Average income for those aged 15 and older in 2010
** 2006 Census data

First Nations Rate Assistance: Context

- First Nation leaders continue identifying high electricity costs as a significant policy issue to be addressed through the Energy Grievance Table process.
- First Nations are seeking redress for historic grievances related to lands affected by energy developments, such as transmission or distribution infrastructure built on reserve lands and traditional territories where, in some cases, they may not have been appropriately consulted.
- Further, in some circumstances, linear infrastructure corridors cut First Nation reserves in half, significantly disturbing the use and management of an already small land base; the First Nation communities disturbed by the energy infrastructure experience long wait times (e.g. 20 years) for their communities to get connected and receive the benefits of the energy derived from the local infrastructure.
- The elimination of the delivery charge has received groundswell support as a way to address these historic grievances.
- At the negotiations with First Nations on Hydro One shares, the issue of delivery costs has, at times, been raised as an issue complementary to achieving a deal.