

FW: Changes to Global Adjustment

From: "Thompson, Scott (MOF)" </o=govon/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=thompson, scott (mof)5d1">
To: "Mayman, Gadi (OFA)" <gadi.mayman@ofina.on.ca>, "Kwan, Ronald (OFA)" <ronald.kwan@ofina.on.ca>
Cc: "McLean, David (MOF)" <david.mclean@ontario.ca>
Date: Wed, 01 Feb 2017 06:57:32 -0500

FYI. I also gave SoC our quickie answer which matches this
Scott

From: Imbrogno, Serge (ENERGY)
Sent: January-31-17 6:48 PM
To: Orsini, Steve (CAB)
Cc: Thompson, Scott (MOF); Davidson, Steven (CAB); Bromm, William (CAB); Kwamena, Boafoa (CAB)
Subject: Re: Changes to Global Adjustment

Hi Steve,

ENERGY legal considered the issue and provided the following comments. We can work with OFA/OEFC to confirm our view.

We don't expect the GA option to have this sort of implication.

This litigation considered an annual price adjustment clause in NUG contracts that is tied to year-over-year changes in the "total market costs" or "TMC". GA is one component of TMC. The NUG court decision interpreted the contract to determine GA for purposes of this price adjustment clause.

The GA option would lower and defer the amount of GA paid by ratepayers (in the short term). If the OEFC uses the actual GA (i.e. inclusive of the GA that would be deferred and repaid later) to pay generators, then the GA option would not impact the NUG payments.

On the other hand, if the OEFC used the adjusted GA (GA minus the debt component) in calculating the year-over-year changes in TMC, the result would presumably be a lower payment to the NUGs than if the GA option was not implemented.

We don't have the contracts to assess how TMC may be interpreted under the GA option. However, we should be able to design the GA option to avoid any risk that the OEFC applies an interpretation that would cause a shortfall for generators and exposes us to litigation.

Sent from my iPad

On Jan 30, 2017, at 8:53 PM, Orsini, Steve (CAB) <Steve.Orsini@ontario.ca> wrote:

Serge,

Could you please look into the comments made by the Ontario Energy Association that changes to lower the Global Adjustment may have legal implications (see attached article). We need to consider this issue as part of any changes to refinancing the global adjustment.

Steve

<Supreme Court denies Ontario appeal.pdf>