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A PROPOSAL TO CREATE REGULATION

made under the

ONTARIO FAIR HYDRO PLAN ACT, 2017

FAIR ADJUSTMENT UNDER PART II OF THE ACT

Definitions

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;

"Toronto Hydro" means Toronto Hydro-Electric System Limited.

Hypothetical regulated rate consumer

2. For the purposes of subsection 7 (1) of the Act, a hypothetical regulated rate consumer meets the following criteria:

[OLC Note: Section 7 of the Act refers to "a hypothetical regulated rate consumer who meets the prescribed criteria" so we need to prescribe criteria under this section.]

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 is invoiced by Toronto Hydro on a monthly basis.

[OLC Note: To help me understand how the various terminology is meant to operate, does para. 3 above mean that the "billing period" is one month?]

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*.

Commented [OPCD1]: Is it intended that these consumers be scoped out? How will equity be achieved as a result of different billing periods?

CV – I don't think they are scoped out – but for the purposes of calculating the 25% on the hypothetical customer, they are selecting a customer that does not have equal billing.

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. (1) The Board shall apply the following methodology for the purposes of section 7 of the Act:

1. Subject to subsections (2) and (3), determine the total invoice amount, consisting 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:

   i. The commodity price of the electricity under the comparison rates described in subsection 7 (3) of the Act.

   ii. 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.

   iii. 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.

iv. 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 subparagraphs i, ii and iii.

2. Subject to subsections (2) and (3), determine the rates that, when applied as the commodity price of the electricity in subparagraph 1 i would result in the hypothetical regulated rate consumer who meets the criteria set out in section 2 being invoiced a total invoice amount in respect of a billing period, consisting of the following types of amounts, that is 25 per cent less than the total invoice amount determined under paragraph 1:

   i. The commodity price of the electricity.

   ii. 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.*

   iii. 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 the *Ontario Energy Board Act, 1998.*

   iv. 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 subparagraphs i, ii and iii.

(2) The following types of amounts shall be excluded from the total invoice amount determined under paragraph 1 or 2 of subsection (1).

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 use of electricity.

4. Any of the following charges that may be set out in an order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998:*

Commented [OPCD2]: Consisting of 8% + 17%
CV – I think we need to clarify this as the 25% should take into consideration:

1 – 8% rebate
2 – impact of the social programs moving to the tax base (OESP, RRRP, FN credit) – the impact of these programs is about 2%
3 – impact of GA refinancing.

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”.

(3) For the purposes of determining the total invoice amount mentioned in paragraph 1 of subsection (1), the Board shall not take into account any financial assistance under the *Ontario Rebate for Electricity Consumers Act, 2016* but the Board shall do so for the purposes of determining the total invoice amount mentioned in paragraph 2 of subsection (1).

Commented [OPCD3]: ??

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 mentioned in subparagraph 1 i of subsection 3 (1).

2. The rates determined by the Board under paragraph 2 of subsection 3 (1).

(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 relating to adjustments made under section 25.33 of the *Electricity Act, 1998*.

(3) For the purposes of paragraph 1 of subsection (2), the total amount 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 the *Electricity Act, 1998*; and

Commented [OPCD4]: Confirm no inadvertent consequences of this term

(b) in any other case, the volume of electricity distributed to the specified consumer during the billing period by the electricity vendor, adjusted for losses as required by

Commented [OPCD5]: Confirm specificity (should term be more flexible? Avg loss? Loss factor as approved by XX?)

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, cl. 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, maintain electricity rates for regulated rate consumers at the rates determined under paragraph 2 of subsection 3 (1); or

[ENE LSB Note: Is this in keeping with the policy intention? Maintaining rates as per July 1, 2017 if the rate of inflation is negative is more than likely to result in bills rising (and, of course, by more than the rate of inflation). If Toronto Hydro's distribution rates rise by 5% (and, say, 2% on the bill as a consequence) when inflation is negative or zero, the bill would rise by more than the rate of inflation. Please confirm.]

(b) in any other case, the Board shall determine electricity rates for regulated rate consumers in accordance with subsections (2) and (4).

(2) For the purposes of clause (1) (b), the rates must, when applied as the commodity price of the electricity, result in a hypothetical rate regulated consumer described in section 2 being invoiced a total invoice amount in respect of a billing period, consisting of the following types of amounts but excluding the types of amounts referred to in subsection (3), that is higher than the total invoice amount referred to in paragraph 2 of subsection 3 (1) by the rate of inflation:

1. The commodity price of the electricity.

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.

(3) The types of amounts to be excluded for the purposes of subsection (2) are the types of amounts referred to in subsection 3 (2).

(4) For the purposes of subsection (1) , the Board shall, when determining the total invoice amount referred to in paragraph 2 of subsection 3 (1), take into account any financial assistance under the *Ontario Rebate for Energy Consumers Act, 2016*.
[OLC Note: I've suggested slightly different wording than "first total invoice amount" because I don't think that term is sufficiently clear as a drafting matter. I have also included your note immediately below, as per your request.]
[ENE LSB Note: The reference to the "first total invoice amount" is intended to refer to the May 2018 invoice that has the attributes set out in paragraphs 1 to 3 of subsection (1). If there is a better way of referring to it, we are open to suggestions. The difficulty is that there are two "total invoice amounts" referred to in subsection (1), and we are trying to identify to which one subsection (4) relates.]

(5) In this section,

"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;

"rate of inflation" means the percentage change between,
[ENE LSB Note: Does this work with a comment Tim made regarding CPI being computed for ten, versus twelve, months? Does this align with OEB RPP rate-setting processes and timing?]

(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 vaolue of the Ontario Consumer Price Index for the 12-month period ending on the last day of the most current month for which the Ontario Consumer Price Index is reported by Statistics Canada as of the time the Board applies the methodology mentioned in subsection (1).

Subsequent adjustments, other specified consumers, cl. 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 amount of the 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 in respect of the adjustments made under section 25.33 of the *Electricity Act, 1998*.

(3) For the purposes of paragraph 1 of subsection (2), the total amount 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 the *Electricity Act, 1998*; 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 losses as required by 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) If the amount determined under paragraph 2 of subsection (2) in respect of a billing period is a negative amount, that amount shall be given as a credit to the specified consumer in respect of that billing period.

(6) In determining the rates mentioned in subsection (4), the Board shall take into account any financial assistance under the *Ontario Rebate for Electricity Consumers Act, 2016.*
[ENE LSB note: If this provision is required, the OEB believes that it needs to be that the OEB will take ORECA into account.]

Commented [OPCD6]: How are interest and management fees from OPG Trust to be addressed in regs?

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 would come into force on the day it is filed.