TBS

Communications Branch

Your Strategic Partner

Issue Note

Accounting Structure of the Fair Hydro Plan

Updated: April 22, 2018

Issue:

- How do you respond to the Globe & Mail's April 21, 2018 article alleging that the province has used inappropriate accounting practices for OFHP that will cost taxpayers billions?

Context:

- The Globe & Mail published the article, "Bad books: How Ontario's new hydro accounting could cost taxpayers billions," by Matthew McClearn on April 21, 2018. The article alleges that the government used inappropriate accounting for Ontario's Fair Hydro Plan (OFHP) that may end up costing taxpayers billions.

- Matthew McClearn contacted Treasury Board Secretariat (TBS), Ministry of Finance, and Ministry of Energy with questions following the Standing Committee on Public Accounts (SCOPA) meeting on February 28, 2018 up until April 20, 2018 with questions related to the financial and accounting structure of OFHP. He had also requested interviews with the TBS Deputy Minister, Finance Deputy Minister, and the Provincial Controller, which were not granted.

- The article is a lengthy investigative piece, offering a stark criticism of the accounting structure for OFHP, relying on the narrative offered by the Auditor General of Ontario and other accounting experts. The article names several Ontario Public Service (OPS) officials, including the Deputy Ministers of TBS and Finance, and the Provincial Controller.

- The article was featured prominently on the front page of the Globe & Mail's print edition and online. The news outlet also heavily promoted the article on social media and it was retweeted by several reporters. The sentiment has been negative.

- In the coming weeks (see related upcoming reports section below and attached issues forecast calendar), the Auditor General, the Financial Accountability Officer, and SCOPA are expected to release reports that will likely echo the various themes outlined in the article.

- The Ministry of Energy and TBS will lead the government's response to the article. In particular:
    - The Ministry of Energy will respond to the OFHP broadly, as well as any comments related to the special audit of IESO

- TBS will respond to issues related to the accounting structure for OFHP, including any questions related to speculations about audit opinions on the financial statements of the province.

Strategic Approach:

- A reactive issues management approach is recommended, which:
  - Highlights due diligence in decision making (OFHP accounting, IESO market accounts, IESO rate-regulated accounting)
  - Emphasizes the role of a public servant is to provide non-partisan advice to government based on due diligence and the application of professional judgment.
  - Emphasizes that the province will continue to follow PSAS, as always, and will seek appropriate expert guidance where PSAS is silent.
  - Reaffirms the government's commitment to working with the Office of the Auditor General.
- The Ministry of Energy and TBS will lead the government's response to the article. In particular:
  - The Ministry of Energy will respond to the OFHP broadly, as well as any comments related to the special audit of IESO
  - TBS will respond to issues related to the accounting structure for OFHP, including any questions related to speculations about audit opinions on the financial statements of the province.

Related Upcoming Reports:

- Auditor General's Special Audit of the IESO (date: expected Monday, April 23 - TBC)
- Order Paper Questions #17 (opinions from external advisors re. OFHP) and #20 (re. 'regulatory assets' and legislated accounting) (date: due to Cabinet Office on Tuesday, April 24)
- TBS FOI 014 (Minister emails pertaining to financial/accounting structure of OFHP; requestor is 'media') (date: decision to be released on May 3, 2018)
- Auditor General's Review of Ontario's Pre-Election Report (date: TBC)
- Financial Accountability Officer's Spring 2018 Economic and Budget Outlook (date: TBC)
- SCOPA's Report on Chapter 2, Public Accounts of the Province, of the Auditor General's 2017 Annual Report (date: TBC)

Commented [VC(1]: The AG's documents on IESO were posted on her website on April 11 (under the section on Standing Committee on Public Accounts) – not sure what she is releasing tomorrow

Questions and Answers

Key Messages:

- The province's financial statements are prepared in accordance with Canadian Public Sector Accounting Standards (PSAS).
- In developing Ontario's Fair Hydro Plan (OFHP), the government considered a range of implementation options and consulted with legal, accounting, financial and energy sector third-party experts to provide advice and ensure due diligence was completed.
- The impact of the Fair Hydro Plan is transparently disclosed in the December 31, 2017 financial statements of the Independent Electricity System Operator (IESO), Ontario Power Generation (OPG), which have been released with unqualified (or clean) audit opinions from their external auditors, and will be transparent in the the consolidated financial statements of the province, which will be released in Public Accounts later this year.
- The province has a strong track record of producing high-quality financial reports on a timely basis, and we will continue to move forward and present the province's finances fairly and accurately and in accordance with PSAS.
- The province has the utmost respect for all independent officers of the legislature, and we value the important and necessary perspective they bring.
- For this matter, like any other, Ontario's public servants have implemented the government's direction with professionalism and dedication.
- In turn, we made a decision to step up by providing substantial and lasting relief on electricity bills to make life fairer and more affordable – for all Ontario families.

Questions & Answers:

Audit Opinions

1. Are you concerned about an adverse accounting opinion?

- It would be inappropriate to speculate about how the Auditor General may issue an opinion for the 2017-18 Public Accounts.
- The province's financial statements are prepared in accordance with Canadian Public Sector Accounting Standards (PSAS).
- In developing Ontario's Fair Hydro Plan (OFHP), the government considered a range of implementation options and consulted with legal, accounting, financial and energy sector third-party experts to provide advice and ensure due diligence was completed.

- The impact of the Fair Hydro Plan will be transparent in the financial statements of the Independent Electricity System Operator (IESO), Ontario Power Generation (OPG) and the consolidated financial statements of the province.

- The province has a strong track record of producing high-quality financial reports on a timely basis, and we will continue to move forward and present the province's finances fairly and accurately and in accordance with PSAS.

- The province has the utmost respect for all independent officers of the legislature, and we value the important and necessary perspective they bring. We will continue to work closely with the Office of the Auditor General to identify audit issues early and to ensure that stakeholders are engaged in discussions regarding risks and resolution.

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2. Can the Auditor General issue a qualified opinion on the Pre-Election Report?

- The *Fiscal Transparency and Accountability Act* requires the Auditor General of Ontario to review the pre-election report and issue a statement on the results of that review.

- It would be inappropriate to speculate about the details of the Auditor General's statement on her review of the Pre-Election Report.

- The province has been working closely and constructively with the Office of the Auditor General on the Pre-Election Report, ensuring her office has the information they need to complete their review.

3. Other auditors are agreeing with the Auditor General of Ontario – how do you respond?

- The province has the utmost respect for all independent officers of the legislature, and we value the important and necessary perspective they bring.

- Public Sector Accounting Standards (PSAS) are principle based – they are not a set of specific prescriptive rules. Applying them requires the application of professional judgment.

- All Chartered Professional Accountants (CPAs), including those employed by the Ontario Public Service (OPS), are required to comply with the Code of Professional Conduct for CPAs. One of those rules is that they not be associated with false or misleading information.

- That means that if the professional accountants in the OPS do not agree with the judgment of the Ontario Auditor General, it is not as simple as agreeing to accept the interpretation of the Office of the Auditor General if they believe that interpretation would result in false or misleading financial statements.

- While we expect professional accountants to agree on the vast majority of issues, we acknowledge that they may not agree on everything and when that occurs, and the difference is material to the financial statements, the Office of the Auditor General can choose to issue a qualified audit opinion.

- The province has a strong track record of producing high-quality financial reports on a timely basis, and we will continue to move forward and present the province's finances fairly and accurately and in accordance with PSAS.

Accounting Transparency

4. Are you concealing your borrowing as the article and video claim?

- No. The province's financial statements are prepared in accordance with Public Sector Accounting Standards (PSAS).
- The debt borrowed directly by the province is included in the gross debt of the province in the same way that all other debt issued by the province is recorded. The debt issued by either the Fair Hydro Trust of OPG is recorded on the consolidated financial statements of OPG. OPG is reflected in the province's consolidated financial statements as an investment, which is the required treatment under PSAS for government business enterprises. The method used to record OPG in the consolidated financial statements of the province is the same method that has been used since the Province began recording its investment in OPG 17 years ago.
- In developing Ontario's Fair Hydro Plan (OFHP), the government considered a range of implementation options and consulted with legal, accounting, financial and energy sector third-party experts to provide advice and ensure due diligence was completed.
- The impact of the Fair Hydro Plan will be transparent in the financial statements of the Independent Electricity System Operator (IESO), Ontario Power Generation (OPG) and the consolidated financial statements of the province.

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5. Is this accounting fraud?

- No. The province's financial statements are prepared in accordance with Public Sector Accounting Standards (PSAS).
- In developing Ontario's Fair Hydro Plan (OFHP), the government considered a range of implementation options and consulted with legal, accounting, financial and energy sector third-party experts to provide advice and ensure due diligence was completed.
- The impact of the Fair Hydro Plan will be transparent in the financial statements of the Independent Electricity System Operator (IESO), Ontario Power Generation (OPG) and the consolidated financial statements of the province.

6. How do you respond to the article's claim that rate-regulated accounting is "accounts receivable on steroids?"

- Again, the province's financial statements are prepared in accordance with Public Sector Accounting Standards (PSAS).
- The IESO made the decision to adopt rate-regulated accounting because it better reflects the economic substance of certain types of expenses that may not be directly recovered through the normal revenue requirement model.
- The IESO management, IESO's Audit Committee, IESO's Board of Directors, IESO's external auditor and the Office of the Provincial Controller all support the use of rate-regulated accounting by IESO.
- Many entities in Canada, including Ontario Power Generation (OPG) and Hydro One use rate-regulated accounting. Rate-regulated accounting is well understood in the electricity sector, and the approach selected was taken in that context. The recognition of regulatory assets brings IESO in line with six other independent system operators in North America.
- Canadian Public Sector Accounting Standards (PSAS) are silent on the issue of using rate regulated accounting – they neither explicitly permit, nor prohibit, the recognition, measurement, presentation, or disclosure of rate-regulated activities.
- In the absence of a clear position on an issue, standard accounting practice dictates that an entity should consult other accounting standards. This guidance for PSAS is included in the Canadian Public Sector Accounting Handbook.
- In this case, the Independent Electricity System Operator (IESO) consulted U.S. Generally Accepted Accounting Principles (GAAP), the appropriate accounting framework in North America that provides guidance on accounting for rate-regulated operations.

7. Are you creating "fake assets" and running "financial scams"?

- No. The province's financial statements are prepared in accordance with Public Sector Accounting Standards (PSAS).
- The assets reflected as a result of the Fair Hydro Plan is the portion of the reduction in electricity rates that will be recovered from taxpayers in the future, as a result of reallocating electricity system costs to those benefitting from the costs. The amounts are recoverable based on the legislation in the Ontario Fair Hydro Act and subject to the rate setting process of the Ontario Energy Board.
- In developing Ontario's Fair Hydro Plan (OFHP), the government considered a range of implementation options and consulted with legal, accounting, financial and energy sector third-party experts to provide advice and ensure due diligence was completed.
- The impact of the Fair Hydro Plan will be transparent in the financial statements of the Independent Electricity System Operator (IESO), Ontario Power Generation (OPG) and the consolidated financial statements of the province.

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- The province has a strong track record of producing high-quality financial reports on a timely basis, and we will continue to move forward and present the province's finances fairly and accurately and in accordance with PSAS.

8. Was is appropriate for the Provincial Controller to be advising IESO on market accounts at the same time as helping to develop the Fair Hydro Plan?

- In January 2017, at one of the initial meetings that the Provincial Controller attended to discuss Ontario's Fair Hydro Plan (OFHP), the Controller became aware of the accounting for the market accounts at the Independent Electricity System Operator (IESO).
- At that point the Provincial Controller requested that IESO management review the accounting for these accounts.
- The Provincial Controller did not "order" the IESO to review its accounting, and the request made was related to the accounting for the market accounts for IESO, and had nothing to do with rate regulated accounting or the Global Adjustment Refinancing Aspect of the Fair Hydro Plan.
- At the time the request was made, the structure for the Global Adjustment Refinancing of OFHP had not been determined.
- The recognition of market accounts on IESO's books better reflects the financial position of the IESO-administered markets at year-end. IESO's decision to recognize market accounts was supported by the IESO's audit committee, its board of directors, its independent external auditor, and by the Office of the Provincial Controller.
- This accounting is consistent with the presentation used previously by the Ontario Power Authority (which was merged with the IESO on January 1, 2015) in its financial statements.
- While the Provincial Controller became aware of the accounting for the market accounts of IESO at a meeting to discuss the Fair Hydro Plan, the request to review the accounting for the market accounts was not tied to or in anticipation of the structure of the Fair Hydro Plan.

9. How do you respond to C.D. Howe's claim that they've never before seen such a convoluted accounting arrangement in the public sphere?

- The province's financial statements are prepared in accordance with Canadian Public Sector Accounting Standards (PSAS). We are committed to providing high-quality financial reports that support transparency and accountability in reporting to the public and the legislature.

- In developing Ontario's Fair Hydro Plan (OFHP), the government considered a range of implementation options and consulted with legal, accounting, financial and energy sector third-party experts to provide advice and ensure due diligence was completed.

- The impact of the Fair Hydro Plan will be transparent in the financial statements of the Independent Electricity System Operator (IESO), Ontario Power Generation (OPG) and the consolidated financial statements of the province.

- The province has a strong track record of producing high-quality financial reports on a timely basis, and we will continue to move forward and present the province's finances fairly and accurately and in accordance with PSAS.

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10. How do you respond to the suggestion that this accounting structure resembles tax avoidance schemes in the private sector?

- The province's financial statements are prepared in accordance with Canadian Public Sector Accounting Standards (PSAS).

- In developing Ontario's Fair Hydro Plan (OFHP), the government considered a range of implementation options and consulted with legal, accounting, financial and energy sector third-party experts to provide advice and ensure due diligence was completed.

- The impact of the Fair Hydro Plan will be transparent in the financial statements of the Independent Electricity System Operator (IESO), Ontario Power Generation (OPG) and the consolidated financial statements of the province.

- The province has a strong track record of producing high-quality financial reports on a timely basis, and we will continue to move forward and present the province's finances fairly and accurately and in accordance with PSAS.

Freedom of Information (FOI) Requests

11. Why are you stonewalling the Globe & Mail reporter's FOI efforts?

- Consistent with other Canadian jurisdictions, Ontario's Freedom of Information legislation operates on a user-pay principle. Processing fees are required to be paid when requesting government records.

- Ontario's current fees are in line with other Canadian jurisdictions.

- The Information and Privacy Commissioner has supported the user-pay principle as it may help eliminate questionable uses of the act.

- Since 2015, the Treasury Board Secretariat has been 100 per cent compliant for all Freedom of Information requests it has received.

- In some cases, records may contain information that will be withheld in accordance with the legislation, such as personal information about individuals, confidential business information, advice to government or information that is subject to solicitor client-privilege.

- The Treasury Board Secretariat continues to uphold the principles of openness and transparency when considering requests for information and making more government information publicly available.