

RE: Call re Delivery of Reference Documentation to Province

From: "ASHBOURNE, STEPHEN" <stephen.ashbourne@blakes.com>
To: "Kandeepan, Ken (OFA)" <ken.kandeepan@ofina.on.ca>, "Thouin, Alena (ENERGY)" <alena.thouin@ontario.ca>, "Whitfield, Tobias P. (MOF)" <tobias.whitfield@ontario.ca>, "Manning, Mike (OFA)" <mike.manning@ofina.on.ca>, "Hanslep, Malle (MOF)" <malle.hanslep@ontario.ca>, "Strathy, Anna (OFA)" <anna.strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <ronald.kwan@ofina.on.ca>, "Christie, Tim (ENERGY)" <tim.christie@ontario.ca>, "Veinot, Cindy (TBS)" <cindy.veinot@ontario.ca>, "Donaldson, Mark (TBS)" <mark.donaldson@ontario.ca>
Cc: "Sawwaf, Khareem (ENERGY)" <khareem.sawwaf@ontario.ca>, "Huang, Jackson (MEDG/MRIS)" <jackson.huang@ontario.ca>, "Cayley, Daniel (ENERGY)" <daniel.cayley@ontario.ca>, "Lightbody, Ava (ENERGY)" <ava.lightbody@ontario.ca>, "Rehob, James (ENERGY)" <james.rehob@ontario.ca>, "VINER, JON" <jon.viner@blakes.com>
Date: Tue, 09 Jan 2018 09:26:15 -0500
Attachments: Fair Hydro OM - Comments.pdf (1.22 MB)

Hi. Here is a list of items that could be discussed at 9:30, in order to settle on the scope and nature of commenting on the OM:

MOE – Alignment Considerations

- 1. Simplified references to the OFHPA (general caveat)
 2. Scope of descriptions (generally, should be ...subject to the OFHPA and the Regulations)
 3. “purposes” of the OFHPA (e.g., implies that is rate reduction)
 4. Nature and duration of the “moratorium period” (non-legislative)
 5. Trust vs. “financing entity” (permit multiple FEs and co-ownership arrangements – minimally described)
 6. “Fair Allocation Amount” – amount vs. effect of calculation (imprecise); concept of “Readjustments” missing
 7. Financing Plan – refinements (e.g., references to Refinancings)
 8. Expectations re FAA – negative until 2024
 9. “Ontario’s Fair Allocation Plan” – styling
 10. OPG appointment as FSM (initial only – ability for Minister to replace)
 11. Inclusions into IESO deferrals (precision)
 12. Carrying costs vs funding rebates (impact on nature of Investment Asset)???
 13. No reference to pre-OFFHPA adjustments (piggy bank)
 14. Risk Factors – approach to describing legal risks and Protection Agreement as mitigation

15. Technical definitions and descriptions (e.g., carrying costs; forecasts from IESO rather than forecast information; invoicing mechanics; simplifications of definitions; etc.)
16. Limited discussion re contents of “Financing Plan”
17. No real recognition of tail risk and duration mismatch considerations and mitigants/strategies
18. No discussion re OFHPA rights of action, etc.
19. “non-bypassable” (meaning)

OFA - Change of Law Protection Agreement

1. Narrative (e.g., “in favour of the Issuer”)
2. Notes do not constitute debt of Province, etc. (confirm description) – additional considerations?
3. Scope of “Approved Obligations” (overbroad)
4. Positive obligations in favour of Province (e.g., apply amounts; credit for applied amounts)
5. Definition of “Protection Events” (align)
6. Rights of Subrogation (needs to be more detailed)
7. Mechanics of Protection Account
8. Limited direct rights of Noteholders (through indenture trustee)
9. Limitations on damages
10. Only passing reference to the “Process Agreement” in OM (but referred to in more detail in the Investor Presentation)

Other

1. Confidentiality (deemed vs. confirmed in writing)
2. Liability for Taxes (priority claim in waterfall; impact on triggers)
3. IESO - descriptions
4. Electricity Market; OEB; OPG
5. Platform (e.g., very broad cross default – beyond generic risk factors?)
6. Interplay between Warehouse and Term issuances
7. Description of 2018 Notes
8. Optional Redemption of Notes (confirm if applicable/acceptable)

FYI, attached is our internal (preliminary) mark-up of the OM. It should not be on-circulated at this stage. We are providing it now in case you would find it useful to have specified illustrations of the foregoing items.

Regards, Steve

Stephen R. Ashbourne
Partner
stephen.ashbourne@blakes.com
Dir: 416-863-3086



Blake, Cassels & Graydon LLP
199 Bay Street, Suite 4000, Toronto ON M5L 1A9
Tel: 416-863-2400 Fax: 416-863-2653
blakes.com | [Twitter](#) | [Unsubscribe](#)

Blake, Cassels & Graydon LLP | Barristers & Solicitors | Patent & Trade-mark Agents
This email communication is CONFIDENTIAL AND LEGALLY PRIVILEGED. If you are not the intended recipient, please notify me at the telephone number shown above or by return email and delete this communication and any copy immediately. Thank you.

L'information paraissant dans ce message électronique est CONFIDENTIELLE. Si ce message vous est parvenu par erreur, veuillez immédiatement m'en aviser par téléphone ou par courriel et en détruire toute copie. Merci.