

RE: Ontario Fair Hydro Plan

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To: "Smith, Elliot" <esmith@osler.com>, "Sebastiano, Rocco" <rsebastiano@osler.com>, "Mansoori, Nina" <nmansoori@torys.com>, "Kacaba, Jennifer (ENERGY)" <jennifer.kacaba@ontario.ca>, "Rehob, James (ENERGY)" <james.rehob@ontario.ca>, "Shear, Dan (ENERGY)" <dan.shear@ontario.ca>, "Nelms, Scott (MOF)" <scott.nelms@ontario.ca>, "Hume, Steen (ENERGY)" <steen.hume@ontario.ca>, "Christie, Tim (ENERGY)" <tim.christie@ontario.ca>, leslie.wong@opg.com, "MCAULEY Tyler -LAWDIV" (tyler.mcauley@opg.com) <tyler.mcauley@opg.com>, john.s.lee@opg.com, judy.wilson@blakes.com, stephen.ashbourne@blakes.com, bryson.stokes@blakes.com, "Alan Hibben" (alan.hibben@rogers.com) <alan.hibben@rogers.com>, brad.purkis@tdsecurities.com, maharukh.hilloowala@tdsecurities.com, michael.wolff@tdsecurities.com, harold.holloway@tdsecurities.com, "Niehaus, Katrina" <katrina.niehaus@gs.com>, "Benaiah, Ian" <ian.benaiah@rbccm.com>, "Nevison, Gary (Gary.Nevison@tdsecurities.com)" <gary.nevison@tdsecurities.com>, "Thom, Trevor (Trevor.Thom@tdsecurities.com)" <trevor.thom@tdsecurities.com>, "Akman, Steven (Steven.Akman@tdsecurities.com)" <steven.akman@tdsecurities.com>, "Thompson, Susan (Susan.Thompson@tdsecurities.com)" <susan.thompson@tdsecurities.com>, "Manii, David (david.manii@tdsecurities.com)" <david.manii@tdsecurities.com>, "Feldman, Michael" <mfeldman@torys.com>, "Persaud, Donnie - Debt Capital Markets" <donnies.persaud@cibc.com>, "Turnbull, Vickie" <vickie.turnbull@rbccm.com>, "Dal Bello, David" <david.dalbello@rbccm.com>, "Fitzpatrick, Michael F." <mfitzpatrick@hunton.com>, michael.boll@ieso.ca, Kim Marshall <kim.marshall@ieso.ca>, "Calwell, Carolyn (ENERGY/MEDEI/MRI)" <carolyn.calwell@ontario.ca>, "Myers, Jonathan" <jmyers@torys.com>, "Suzie Gignac (suzie.r.gignac@ca.ey.com)" <suzie.r.gignac@ca.ey.com>, "Blake Langill (blake.w.langill@ca.ey.com)" <blake.w.langill@ca.ey.com>, leeanne.probert@ca.ey.com, "Kandeepan, Ken (OFA)" <ken.kandeepan@ofina.on.ca>, "Hosick, Sarah (TBS)" <sarah.hosick@ontario.ca>, "Johnson, Paul (ENERGY/MEDEI/MRI)" <paul.johnson3@ontario.ca>, "Veinot, Cindy (TBS)" <cindy.veinot@ontario.ca>, Glenn Zacher <gzacher@stikeman.com>, "O'Brian, Adam" <aobrian@hunton.com>, "Emes, Aaron" <aemes@torys.com>, Peter Hamilton <phamilton@stikeman.com>, JORDA Jenny -FIN & C CTRL <jenny.jorda@opg.com>, marianne.aldred@ontarioenergyboard.ca, "Petsche, Nadine (TBS)" <nadine.petsche@ontario.ca>, "Ramchandani, Rima" <rramchandani@torys.com>, "Leibel, Robbie" <rleibel@torys.com>, "Olusoga, Yinka" <yolusoga@torys.com>, "Saulnier, Brett" <bsaulnier@torys.com>

Cc: "King, Richard" <rking@osler.com>, "Fullerton, Rick" <rfullerton@osler.com>, "Milligan, Peter" <pmilligan@osler.com>, "Innes, Michael" <minnes@osler.com>, "Hill, Krista" <khill@torys.com>

Date: Mon, 24 Apr 2017 20:04:31 -0400

Attachments: Fair Hydro Plan Act (OPG_Torys_ Comments - April 23 2017) Consultation (....docx (84.61 kB))

All,

We discussed Osler's two comments in the email below and include further revisions (highlighted in green) to sections 11xx(4), 12xx(4) and 53.1. Please let us know if you'd like to discuss the changes. Regards, Krista

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Sent: April-23-17 5:53 PM

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Subject: RE: Ontario Fair Hydro Plan

Please find enclosed Osler's comments on the draft legislation, also blacklined to v. 3. This remains subject to further review and comment by the Dealers.

We have done a preliminary review of the mark-ups from Torys/OPG and Stikeman/IESO, and are largely in agreement with their comments. However, we would note the following in respect of the Torys mark-up (which we have not yet had an opportunity to discuss with Torys):

- (1) Torys proposed revision to add a new section (1.4) to new section 53.1 of the Electricity Act is problematic as drafted. If it is necessary to be included, we would like to see it limited to recording the assets and liabilities for accounting purposes and requiring a note on the balance sheet indicating that the assets are held in trust and not available to OPG's creditors; and
- (2) we are concerned that the deemed trust language they added in 11xx(4) and 12xx(4) would not be enforceable on insolvency and that we would strongly prefer that true trusts be established.

Elliot



Elliot Smith

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Subject: RE: Ontario Fair Hydro Plan

Please note that we will be circulating some additional comments on behalf of the Dealers later today or first thing tomorrow morning. We have reviewed the comments from Torys and we are generally in agreement with them.

Regards, Rocco

From: Mansoori, Nina [<mailto:nmansoori@torys.com>]

Sent: Sunday, April 23, 2017 11:20 AM

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All – please find attached OPG and Torys' consolidated comments on the draft legislation circulated below (blacklined to that draft). Please note that this draft remains subject to the continuing review of OPG.

Best Regards,
Nina

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All - Please find attached the next turn in the consultation draft (v.3) of the proposed legislation. We have been working to address the feedback that you provided earlier in the week. A number of points remain in progress. As with the earlier versions, by sharing this document, we hope to continue to advance our discussions.

Our timeline has been extended and we are now working to a pens down date of April 28th. We will not get another extension. Accordingly, we ask for your detailed, written comments on the draft, which we require no later than Sunday at noon.

We will continue to work on the bill in the interim, so earlier instructions are helpful to us. With your input on this timeline, we expect to be able to provide one more circulation around Tuesday or Wednesday next week.

We have not had the opportunity to add notes or to update our crosswalk to the Blakes summary document.

We look forward to receiving your written comments.

Jennifer

Jennifer J. Kacaba
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MAG Civil Law Division

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Please find attached a further turn of the consultation draft. This document continues to be a work in progress. We have not had the opportunity to add notes or update our tracking table. We also have not yet considered the comments that we received this morning. We look forward to seeing you at 1.

Jennifer

Jennifer J. Kacaba
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Sent: April 15, 2017 10:06 PM

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Subject: Ontario Fair Hydro Plan

All - Please find attached the draft "Intergenerational Fairness in Hydro Rates Act, 2017". A tremendous amount of work has gone into getting to this draft and much more work is required to get this ready for the House. The goal of sharing this document now is to further the process we have engaged in over the last weeks. In the attached, we have included notes to try to address where the drafting is not yet consistent with our thinking. These notes are neither comprehensive nor complete. They are intended only as flags and as colour to the draft. We have not forgotten the comments that you have already provided and we are continuing to working through the translation of the commercial terms we have been discussing into legislative language.

For ease of reference, included with the draft bill are the partially updated Blakes' summary, a chart that attempts links the articles in that document to the sections of the bill (which is imperfectly numbered at best) and excerpts from the Electricity Act and the Ontario Energy Board Act, related to the consequential amendments.

In your review, please focus on the broad stroke concepts, rather than the minutia, and keep in mind the cascade of instruments that will be required – legislation first, then regulations and finally commercial agreements. We look forward to discussing the broader concepts on Monday

Carolyn Calwell
Legal Director
MAG Civil Law Division
Ministries of Energy / Economic Development & Growth /
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