TREASURY BOARD / MANAGEMENT BOARD OF CABINET REQUEST ASSESSMENT NOTE

Ontario

Ministry:	Energy
Meeting Date:	January 31, 2017
Agenda Class:	Discussion
Last reviewed by: N/A	**Tracking to:** Fast Track Cabinet (February 2, 2017)

SUBMISSION TITLE:	Ontario Clean Energy Benefit Trailing Liability

I. DECISION BEFORE THE BOARD

- Approve an expenditure increase of $20.8M to fund trailing liabilities related to the Ontario Clean Energy Benefit, which ended December 31, 2015.

II. RECOMMENDATIONS:

• Approve an expenditure increase of $20.8M to fund trailing liabilities related to the Ontario Clean Energy Benefit offset from the Treasury Board Contingency Fund.	*Approve*
• Direct any underspending, including any unused portion of the year-end accrual, be returned to Treasury Board/Management Board of Cabinet and not be reallocated within the Ministry or used towards savings targets.	*Direct*

III. FINANCIAL SUMMARY

$ Millions	**2016-17**	**2017-18**	**2018-19**
Initiative cost requested	20.8	0.0	0.0
Initiative cost recommended	20.8	0.0	0.0
Recommended program base	0.0	0.0	0.0
Offset Recommended (No internal offset identified)	0.0	0.0	0.0
Total Fiscal Impact	20.8	0.0	0.0

IV. KEY COMMENTS AND CONSIDERATIONS

The Ministry indicates it continues to make payouts to local distribution companies (LDCs) and unit sub-metering providers (USMPs) on trailing invoices related to the Ontario Clean Energy Benefit (OCEB) that ended December 31, 2015.

- The original regulation that established the Ontario Clean Energy Benefit (O. Reg. 495/10) did not specify an end date for the government's liability to pay OCEB to consumers. This has created an on-going liability for which ENERGY has run out of funds to service.

The Ministry accrued $53M at the end of 2015-16 to allow for anticipated trailing program expenses in 2016-17 and beyond. Only $115,000 remains and there is high risk that the next set of monthly claims could exceed this amount.

In fall 2016, The Ministry introduced Bill 13, Ontario Rebate for Electricity Consumers Act, 2016 and was able to amend O. Reg. 495/10 to include a cut-off date for all OCEB claims. LDCs and USMPs have until August 1, 2017 to submit their claims (customers have until February 1, 2017 to file a claim).

The Ministry is requesting an appropriation increase of $20.8M, offset from the Treasury Board Contingency Fund, to cover the remaining OCEB trailing liability from LDC's and USMPs. At this time, no internal offsets have been identified. This request would include payments for claims submitted in the current year, as well as setting up a year-end accrual for claims that continue to come in until August 2017.

Not proceeding with the Ministry's request would prevent the province from issuing payments to LDC's and USMPS for any amount over $115K, as early as February 2017. The Ministry also notes an inability to issue payments will result in a breach of the MOU with the IESO:

- The IESO invoices ENERGY for the OCEB claims (Monthly around the 10th) and issues the reimbursements to LDCs and USMPs. If ENERGY cannot provide funding within two business days of being invoiced by the IESO, the IESO may have to look at alternative payment methods to reimburse LDCs and USMPs. Alternative payment methods for the IESO may include making payment from IESO Treasury, through loans, or a combination of the two. Inability to issue payments puts ENERGY into a MOU breach and into a default position as per IESO Market Rules. A breach of the MOU between ENERGY and the IESO may result in ENERGY being charged significant interest on any owed principal.

Through its Quarterly submissions in 2016-17, the Ministry has identified the OCEB trailing liability as a $20M pressure.

There is a risk that the Ministry may require further funding in 2017-18 should payments be higher than this current request. However, similar to the setting up of the $53M accrual in 2015-16, approving this request will help mitigate the Ministry's pressures associated with future payments to wrap up OCEB obligations. It is recommended that any underspending, including any unused portion of the year-end accrual, be returned to TB/MBC and not be reallocated within the Ministry or used towards savings targets.

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APPENDIX A: PROPOSED MINUTE

Approve the Ministry's plan to address trailing liabilities associated with the Ontario Clean Energy Benefit that ended March 31, 2015.

In this regard,

i) Approve a Treasury Board Order, under the authority of the Financial Administration Act, in the amount of $20,800,000 in Ontario Clean Energy Benefit (Vote/item 2905-1), offset from the Treasury Board Contingency Fund, to cover payments under the Ontario Clean Energy Benefits program.

ii) Direct:

   a) The Ministry to report quarterly in 2017-18 on the status of the trailing liability and any accrual setup to make payments.

   b) Any underspending, including any unused portion of a year-end accrual, be returned to Treasury Board/Management Board of Cabinet and not be reallocated within the Ministry or used towards savings targets.

FINANCIAL IMPACTS: CHANGES TO EXPENSE AND REVENUE					**TABLE B1**
			Fiscal Plan Basis		***Appropriations Basis***
$ Millions		**20116-17**	**2017-18**	**2018-19**	**2016-17**
Initiative cost recommended		20.8000	0.0000	0.0000	
Expense changes:					
Operating item	Oper	20.8000	0.0000	0.0000	20.8000
Total Fiscal Impact (draw from c-funds)		**20.8000**	**0.0000**	**0.0000**	**20.8000**

APPENDIX C: ONTARIO CLEAN ENERGY BENEFIT

The Ontario Clean Energy Benefit (OCEB) was announced in the 2010 Fall Economic Statement as a way to help families, farms and small businesses mitigate the rising costs of electricity through the transition to a cleaner, modern electricity system. The program provided a benefit equal to 10% of the total cost of electricity on eligible consumers' bills, including tax. The program ran from January 1, 2011 until December 31, 2015, with a 3,000 kilowatt hour per month cap implemented September 1, 2012. To date, OCEB has provided $5.27 billion in benefits to eligible Ontarians.

Year	Appropriation ($)	Actuals ($)
2010-11	300,001,000	299,827,592
2011-12	1,137,774,000	1,032,478,788
2012-13	1,070,000,000	993,504,774
2013-14	1,040,000,000	1,006,201,055
2014-15	1,100,000,000	1,077,960,661
2015-16	860,000,000	860,000,000

The original regulation that established the Ontario Clean Energy Benefit (O. Reg. 495/10) did not specify an end date for the government's liability to pay OCEB to consumers. This has created an on-going liability for which ENERGY has run out of funds to service. In fall 2016, ENERGY amended O. Reg. 495/10 through *Bill 13, Ontario Rebate for Electricity Consumers Act, 2016,* to include an end date for all OCEB claims. LDCs and USMPs have until August 1, 2017 to submit their claims. Customers have until February 1, 2017 to self-declare for OCEB.

There have been questions surrounding the interpretation of the *Ontario Clean Energy Benefit Act, 2010,* and the eligibility of certain multi-unit residential complexes. This eligibility criterion has been taken advantage of, resulting in a larger amount of multi-unit residential claims than originally anticipated. The Ministry received a large invoice in November 2016 and has now nearly exhausted its OCEB accrual. Only $115,000 remains in the OCEB cost centre for use and there is high risk that the next set of monthly claims could exceed this amount.

The Ministry flagged in the OCEB risk in 2016-17 Q1 and Q2 reporting process that outstanding OCEB claims may be greater than the accrual set aside, and that the Ministry may need additional program funding ($20M risk forecast). This risk has materialized with the depletion of the accrual account.

At the end of 2015-16, the Ministry accrued approximately $53 million to cover anticipated liability costs. This accrual was determined through a methodology that was shared with, and included input from, OPCD (Appendix D provides more information on the methodology).

- Payments were made to LDCs and USMPs through this accrual and the Ministry reported to TBS in its Q1 and Q2 Memos, dated August 4, 2016 and December 5, 2016, respectively, that an additional $20 million would be required for outstanding claims.
- The below chart shows payments from the accrual from 2015-16.

Month	Invoice Amount ($ millions)
Accrual Balance at the end of 2015-16	**52.7**
March	3.37
April	2.26
May	8.61
June	16.99
July	11.22
August	5.08
September	0.50
October	0.33
November	4.23
Funds Remaining:	**0.11**

APPENDIX D: FORECASTING OCEB TRAILING LIABILITY

The Ministry provided the following overview of its methodology to arrive at its forecast of $20.8M.

Consumer type	Conservative Estimate
Residential rate class customers	$2.0 M
Multi-unit residential customers	$15.4 M
Farms	$0.7 M
Small businesses	$1.1 M
Independent Power Authority's Repayment	$1.6 M
Total	**$20.8 M**

The Ministry updated the methodology it used for estimating the original OCEB accrual of $53M by using actual results in order to improve accuracy.

The OCEB liability calculation is an estimate of the potential fiscal impact from retroactive OCEB claims that could be made to the Ministry of Energy from eligible OCEB customers.

At a high level, the methodology that was developed to derive a forecast of the OCEB liability factors in:

- The number of OCEB eligible consumers was estimated. Distinct categories of consumers were considered: residential, multi-unit residential dwellings, farms, small businesses and Independent Power Authorities – certain parameters differ across these categories of consumers.
- The average OCEB amount for which a customer could be eligible was developed and applied to the number of customers under each category.
- The estimate was refined to the proportion of customers who may not have received the OCEB due to error (either a direct LDC billing error or a customer failing to declare their eligibility to their LDC), by customer category.
- Assumptions were developed about the proportion of eligible customers who would come forward to claim a retroactive OCEB credit (i.e., they were eligible for the OCEB between January 1, 2011 and December 31, 2015, but did not receive the credit for the duration of the program), and applied to the potential amount of outstanding retroactive OCEB claims in each customer category.
- The methodology to estimate the liability associated with multi-unit residential buildings, which encompass the majority of the potential liability amount estimated, is based on the risk related to buildings that submitted a self-declaration form to claim an OCEB amount reflective of the number of units in the building, and an application submitted to Divisional Court for judicial review on whether eligibility should include other living accommodation should qualify for the program.
- The estimate then factors in the actual spending of the previous accrual over the distinct categories as a percentage of the original methodology. This allows historical claim information to be applied to the formula to help improve the accuracy of the new estimate.