

INDIGENOUS ISSUES (ENERGY)

ISSUE:

There are over 150 First Nation and Métis communities across Ontario with credibly asserted or established Aboriginal and treaty rights. Energy activities have the potential to affect these rights, as well as the socio-economic wellbeing of communities.

Indigenous communities across Ontario also face unique energy-related challenges, which often have complex historical, jurisdictional, geographic and regulatory contexts.

SUGGESTED RESPONSE:

- The Ministry of Energy takes the Crown's duty to consult and, where appropriate, accommodate First Nation and Métis communities very seriously.
- The Ministry of Energy has taken steps to ensure that consultation takes place with communities that may be adversely affected by energy-related projects and activities.
- The Ministry of Energy is committed to maintaining a meaningful dialogue with First Nation and Métis communities. This will help us to understand their energy-related concerns better and work together to find solutions.
- On August 24, 2015, the Chiefs of Ontario and the Government of Ontario signed a historic Political Accord that will guide the relationship between First Nations and the province.
- The Accord, signed by Premier Wynne and Ontario Regional Chief Isadore Day, creates a formal bilateral relationship framed by the recognition of the treaty relationship.
- Through the Accord, the government has committed to working with First Nations on a range of issues, including resource benefits sharing and jurisdictional matters.
- The Ontario-Métis Nation Framework Agreement was renewed in 2014. It sets out how Ontario and the Métis Nation of Ontario will work together over the next five years to improve the well-being of Métis children, families and communities.

IF ASKED ABOUT FIRST NATIONS-ONTARIO ENERGY TABLE:

- The government remains committed to on-going and regular dialogue with First Nations. The First Nations-Ontario Energy Table has been established for First Nation leaders and energy agency and ministry leaders to discuss energy interests and issues.
- Ontario recognizes that regular dialogue with First Nation leadership will better inform new ways to address the unique interests of First Nations in the energy sector.
- The ongoing conversation will build on approaches already in place –such as the First Nations-Ontario Energy Table- while also developing new opportunities for dialogue.

- The inaugural meeting of the First Nations – Ontario Energy Table was held on February 23, 2015. The second Energy table meeting took place in Timmins on April 21, 2016, the third was held in Garden River First Nation on March 10, 2017 and the latest meeting was held in Toronto on November 22, 2017.

IF ASKED ABOUT AGREEMENT-IN-PRINCIPLE FOR SALE OF HYDRO ONE SHARES

- On January 2, 2017, the Province announced the completion of the sale of 14,391,012 common shares of Hydro One Limited, representing approximately 2.4% of the outstanding common shares for the benefit of 129 First Nations in Ontario. This purchase was financed through a loan provided by the Province.
- The Province has also provided seed capital of approximately \$29 million in cash to a new investment fund wholly-owned by Ontario First Nations Sovereign Wealth LP.
- This 25-year deal demonstrates the goodwill envisioned by the Political Accord to promote stronger economic relations by providing meaningful opportunities to First Nations for collective wealth creation and reduce barriers to accessing capital so that First Nations can advance their economic development initiatives.
- This transaction fulfills the Province's commitment in its agreement-in-principle with the Chiefs-in-Assembly on behalf of the First Nations in Ontario, which was previously announced on July 12, 2016.

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IF ASKED ABOUT HIGH ELECTRICITY COSTS IN FIRST NATION COMMUNITIES:

- Electricity affordability is a major concern. Ontario is working to address the issue of electricity affordability, in part, through its Fair Hydro Plan, and supports such as:
 - The First Nations Delivery Credit
 - The Ontario Electricity Support Program
 - Rural and Remote Rate Protection
 - Low-Income Energy Assistance Program
 - Conservation First Framework.

Ontario's Fair Hydro Plan is delivering the single-largest reduction to electricity rates in the province's history.

- Since July 1, 2017, the First Nations Delivery Credit (a component of the Fair Hydro Plan) has provided on-reserve First Nations households who are customers of licensed electricity utilities a credit equal to 100% of the electricity delivery charge on their electricity bills.
- The First Nations Delivery Credit helps address some of the unique challenges that on-reserve First Nations customers face, and recognizes First Nations' contribution to the provincial electricity system.

- Data reported by the Independent Electricity System Operator indicates that over 20, 000 customers are receiving the credit, which was the target pre-launch and reflects a successful rollout.
- Ontario continues to explore options to further address energy affordability issues with First Nations.

IF ASKED ABOUT ONTARIO ELECTRICITY SUPPORT PROGRAM:

- The government recognizes that Indigenous consumers face unique challenges with respect to electricity affordability.
- To mitigate this, the Ministry of Energy tasked the Ontario Energy Board (OEB) with developing and implementing the Ontario Electricity Support Program (OESP), and to consider program accessibility to First Nation and Métis consumers.
- The OEB worked with First Nations to develop an OESP delivery model that meets the needs of their communities, including on-site and face-to-face application assistance. The OESP has provided ongoing assistance directly on the bills of eligible low-income electricity consumers since January 1, 2016.
- The Fair Hydro Plan, enacted on July 1, 2017, expanded the Ontario Electricity Support Program (OESP) by increasing on-bill credits by 50 per cent and making more Ontarians eligible for the program.
- Enhanced supports are available through OESP to First Nation, Métis and Inuit consumers.

IF ASKED ABOUT CONNECTION OF REMOTE FIRST NATION COMMUNITIES:

- The government has identified the connection of remote First Nation communities to the provincial transmission grid as a priority in both the 2013 and 2017 Long-Term Energy Plans (LTEPs) and we remain committed to achieving this goal.
- The Independent Electricity System Operator's (IESO) analysis shows up to 21 of 25 remote First Nation communities are economical to connect to the provincial electricity grid, reducing the reliance on diesel.
- The government recognizes that there are unique challenges associated with supplying remote communities with clean and affordable electricity.
- The Government of Canada has agreed to financially support the early connection of Pikangikum First Nation.
- The province is also working with the four First Nation communities that are not economic to connect to the grid to advance innovative solutions to reduce their dependency on diesel.
- The issue of diesel reduction in remote communities has been raised at a number of interprovincial and federal-provincial tables, to promote dialogue, and sharing of best practices and potential solutions across the country. This includes work done by the pan-Canadian Task Force under CES, and the Energy Technology Working Group (ETWG) under EMMC.

For more information on remote community connection see House Note C03 – Remote First Nation Communities.

IF ASKED ABOUT ONTARIO POWER GENERATION'S PROPOSED LOW AND INTERMEDIATE LEVEL WASTE DEEP GEOLOGIC REPOSITORY (DGR):

- As part of the Canadian Nuclear Safety Commission's Environmental Assessment process, Indigenous communities were consulted on the potential impacts of the proposed DGR.
- The Joint Review Panel (JRP) submitted its environmental assessment report to the federal Environment Minister on May 6, 2015.
- On February 18, 2016, the federal Minister of Environment asked Ontario Power Generation (OPG) to conduct and submit additional studies on the proposed DGR before a decision on the JRP's recommendation is made.
- On January 3, 2017 OPG submitted the requested additional studies and analysis to Canadian Environmental Assessment Agency for review.
- We encourage the federal government to undertake an efficient and transparent review of OPG's additional studies which acknowledges the rigorous consultation already conducted on the project.

For more information on nuclear waste initiatives, please refer to House Note B2C – Nuclear Waste.

IF ASKED ABOUT OPPOSITION BY INDIGENOUS COMMUNITIES OR GROUPS TO THE NUCLEAR WASTE MANAGEMENT ORGANIZATION'S PROPOSED USED FUEL DGR:

- Regulation of nuclear fuel waste falls under the authority of the Government of Canada (Natural Resources Canada), which mandated that nuclear operators establish the Nuclear Waste Management Organization (NWMO) to address the long-term management of Canada's used nuclear fuel.
- Where decisions are required by the province regarding NWMO's site selection activities, Ontario will work with the NWMO to ensure that any potential adverse impacts to Aboriginal and treaty rights are identified, and where appropriate accommodated.

For more information on nuclear waste initiatives, please refer to House Note B2C – Nuclear Waste.

BACKGROUND:

Political Accord:

- The Political Accord signed by the Chiefs of Ontario and Ontario on August 24, 2015 includes the following:
 - Affirms that First Nations have an inherent right to self-government and that the relationship between Ontario and the First Nations must be based upon respect for this right.
 - Commits the parties to work together on issues of mutual interest, including resource benefits sharing, the treaty relationship and jurisdictional matters.
 - Sets a path for further reconciliation between First Nations and the people of Ontario.
- The Accord commits the Premier and First Nations' leadership to meet twice yearly in order to further advance their efforts on shared priorities.

Ontario-Métis Nation Framework Agreement

- The Framework Agreement between Ontario and the Métis Nation of Ontario (MNO) was signed in November 2008.
- In April 2014, the Framework was renewed, setting out how Ontario and the MNO will work together over the next five years to improve the well-being of Métis children, families and communities.
- The MNO maintains a centralized registry of Métis citizens recognized by the Métis Nation of Ontario who are represented at the local, regional and provincial levels through Chartered Community Councils and the Provisional Council of the Métis Nation of Ontario.

First Nations-Ontario Energy Table

- An Energy Table was initially requested by Chiefs participating in the Chiefs of Ontario (COO) 2012 and 2013 All Ontario Chiefs Conferences.
- In July 2013, during the LTEP 2013 engagement process, COO reiterated its expectation in a letter to the Minister of Energy that a political table will allow First Nation leadership to participate directly in Ontario's energy planning exercises. The expectation of a decision-making role for First Nation leaders was noted, particularly if there is a perception that energy policies and activities will affect First Nation rights or interests.
- In October 2013, the Minister committed to establishing a First Nations-Ontario Energy Table in a meeting with COO's decision-making body, the Political Confederacy.
- The inaugural meeting of the First Nations – Ontario Energy Table was held on February 23, 2015. A technical level meeting to support political level discussions was held on January 27, 2016. This meeting focused on electricity affordability, understanding billing and rates, community energy planning, and conservation. The second Energy Table meeting was held in Timmins on April 21, 2016, the third Energy Table meeting was held in Garden River on March 10, 2017 and the latest meeting was held in Toronto on November 22, 2017.
- The Energy Table presents an opportunity to discuss energy policy approaches and gather feedback, fostering a more inclusive and open relationship with First Nations.

First Nation Interests in Broadening the Ownership of Hydro One:

- In July 2015, the Chiefs of Ontario (COO) wrote to Minister Chiarelli advising that First Nations recognize the partial sale of Hydro One as a “significant opportunity...to move past historic grievances and to...share resources and the benefits of the lands.” In response, ENERGY worked with the Chiefs of Ontario to establish a process to identify and address historic grievances related to Hydro One transmission and distribution assets.
- The Chiefs of Ontario articulated a 10% share ownership interest in Hydro One. Ontario engaged in active discussions with the Chiefs of Ontario to consider various options for participation in the ownership of Hydro One for the collective benefit of all of COO’s 133 First Nations.
- The Chiefs of Ontario provided the Chiefs Committee on Energy with a mandate to negotiate a collective purchase of common shares in Hydro One at the Special Chiefs Assembly on Energy on October 27, 2015 in Thunder Bay.
- The Minister of Energy confirmed Ontario’s commitment to continue discussions on First Nation equity participation in the broadening of ownership of Hydro One and negotiate the acquisition of shares in Hydro One with First Nations in Ontario, including the financing for such participation on October 27, 2015.
- Ontario has provided \$1.1 M in Phase 1 capacity funding to the Chiefs of Ontario to enable them to conduct a legal and financial analysis of ownership options in Hydro One
- Ontario has provided \$2.7 M in Phase 2 capacity funding to facilitate COO’s participation in negotiations with Ontario for the acquisition of shares in Hydro One and develop a collectively owned First Nation investment fund as the holding structure.
- On July 12, 2016, the Province and First Nations in Ontario, as represented by the Chiefs-in-Assembly, announced an agreement-in-principle for the Province to sell shares of Hydro One Limited to First Nations for their collective benefit.
 - The Agreement-in-principle was for the Province to sell to First Nations for their collective benefit, up to approximately 15 million shares of Hydro One Limited, depending on the level of First Nation participation.
 - Ontario also committed to provide seed capital to a new First Nation investment fund of up to \$45 million in cash, depending on the level of First Nation participation.
- On December 29, 2017, the Province completed the sale of 14,391,012 common shares of Hydro One Limited, representing approximately 2.4% of the outstanding common shares to 129 participating First Nations for a total purchase price of \$259,038,216.
 - The purchase is financed through a 25-year term loan from the Province. The interest rate for the loan is at the Province’s relevant borrowing rate, plus 15 basis points.
 - The Province has also provided seed capital of approximately \$29 million in cash to a new investment fund wholly-owned by Ontario First Nations Sovereign Wealth LP.
- The transaction announced on January 2, 2018, fulfills the Province’s commitment in its agreement-in-principle with the Chiefs-in-Assembly on behalf of the First Nations in Ontario.
- After completing the transaction, the Province owns 282,412,648 common shares of Hydro One Limited, representing approximately 47.4% of the common shares.
- *For information on the Ontario and First Nations Agreement-in-Principle for Sale of Hydro One Shares, please refer to House Note F1 –Hydro One.*

Energy Affordability

- Many First Nation reserves are located far from high density areas of the province. As a result, they often pay higher distribution costs than customers in more populated areas.
- This is compounded by the way housing is constructed and maintained on reserves. On-reserve housing is a federal responsibility, but housing stock is often energy inefficient (e.g. electric baseboard heating, poorly insulated or sealed).
- First Nation leaders and Political-Territorial Organizations (PTOs) have been advocating for the need to review delivery charges associated with transmission and distribution assets within the context of the potential for electricity rate relief for on-reserve customers.
- In June 2016, the Ministry of Energy directed the OEB to examine and report back with advice on options for an appropriate electricity rate (or rate assistance) for on-reserve First Nations electricity consumers (“First Nations Rate”).
- The OEB investigated and reported back to the Ministry on the following:
 - Options for the design, development and implementation of a First Nations rate.
 - Options for consideration regarding the cost and funding mechanism for the First Nation rate including potential impacts on existing electricity consumers, and on Ontario’s transmission and distribution utilities.
 - Implementation issues including the identification of, and delivery of intake options for eligible consumers, program costs, potential barriers to implementation and uptake, and process mechanisms for reviewing and monitoring outcomes and measuring success.
- Working with its Advisory Committee, the OEB set five evaluation criteria when examining potential possibilities for a First Nations Rate:
 1. Recognition of First Nations’ contribution to Ontario’s electricity system;
 2. Equality of outcome;
 3. Visibility of compensation;
 4. Cost and fairness for those who bear it; and
 5. Ease of implementation.
- As part of its examination, the OEB, in collaboration with the Chiefs of Ontario and the Chiefs Committee on Energy, engaged with First Nations and organizations and prepared recommendations. The report was submitted to the Ministry on December 29, 2016.

As a result, the First Nation Delivery Credit (FNDC) was announced on March 2, 2017.

- In June 2017, a Resolution at the All Ontario Chiefs Conference in Lac Seul First Nation was passed in support of the FNDC implementation approach.
- The FNDC was implemented on July 1, 2017 and provides a 100 per cent credit of the delivery charge to on-reserve First Nation households that are customers of licensed electricity distributors.
 - Eligible customers began seeing the credit on their bills in August 2017.
- In order to receive the FNDC, on-reserve First Nation households need to be on their local distribution company’s (LDC) HST exemption list.
- First Nation on-reserve customers who were not registered for the HST exemption with their LDC prior to July 1, 2017 will not receive the FNDC in August 2017. However, eligible customers can register for the HST with their LDC and receive the FNDC for up to two years retroactively to July 1, 2017.

Ontario Electricity Support Program

- In order to enable the program to provide the greatest benefit to low-income consumers that are most in need of assistance, the credit amount is based on household income and household size.
- The OESP provides a fixed monthly credit amount to qualified First Nation, Métis and Inuit consumers, which is more generous than the credit provided to other consumers, in recognition of the high electricity costs faced by Indigenous consumers.
- The OEB met with the Chiefs of Ontario, the Ontario Federation of Indigenous Friendship Centers, the Métis Nation of Ontario and others to tailor program implementation and administration to First Nation and Métis communities, including deliver by the Native Welfare Administrators Association program.
- The OESP has been available to eligible consumers as of January 1, 2016.

Connection of Remote First Nation Communities

For more information on remote community connection see House Note C03 – Remote First Nation Communities.

Nuclear Energy

For more information on nuclear waste initiatives, please refer to House Note B2C – Nuclear Waste.