

MEETING NOTE

NAME OF ORGANIZATION:	First Nations-Ontario Energy Table
DATE/TIME OF MEETING:	Wednesday, November 22, 2017 - 6:00 to 8:00 p.m.
LOCATION OF MEETING:	Baker Room, Delta Chelsea

PURPOSE: Meeting with COOs Political Confederacy and the Chiefs Committee on Energy to discuss Ontario's Indigenous energy policy and issues of mutual interest.

ATTENDEES:

ENERGY

Glenn Thibeault, Minister of Energy
Andrew Teliszewsky, Ministry of Energy
Serge Imbrogno, Ministry of Energy
David Zimmer, Ministry of Indigenous Relations and Reconciliation
Deborah Richardson, Ministry of Indigenous Relations and Reconciliation
Terry Young, IESO
Chris Fralick, OPG
Ian Jacobsen, OPG
Ferio Pugliese, Hydro One
Warren Lister, Hydro One
Rosemarie Leclair, OEB
Mary Anne Aldred, OEB

COO Political Confederacy

Isadore Day, Ontario Regional Chief, Chiefs of Ontario
Chief Ava Hill, Six Nations of the Grand River
Chief Abram Benedict, Mohawks of Akwesasne
Grand Chief Joel Abrams, Association of Iroquois and Allied Indians
Grand Chief Patrick Madahbee, Union of Ontario Indians
Grand Chief Francis Kavanaugh, Grand Council Treaty #3
Grand Chief Solomon, Mushkegowuk Council

Chiefs Committee on Energy

Chief Ava Hill (PC rep), Six Nations of the Grand River
Chief R Don Maracle, Mohawks of the Bay of Quinte
Chief Elaine Johnston, Serpent River First Nation
Chief Scott McLeod, Nipissing First Nation
Deputy Grand Chief Derek Fox, Nishnawbe Aski Nation
Chief Janice Henderson, Mitaanjugamiing First Nation

Chiefs of Ontario Staff

Nathan Wright
Sydney Oakes
Leah Ballantyne
Marla Monague
Racine Bebamikawe
Amy Lickers

LAST MEETING: The last Energy Table meeting was on March 10, 2017 in Batchewana First Nation.

AGENDA ITEMS provided by the CHIEFS OF ONTARIO:

Opening Remarks

- Elder
 - Nathan Wright
 - Chiefs Committee rep
 - Ontario Regional Chief
 - Minister Thibeault
 - Minister Zimmer
 - Introductions
1. Ontario Fair Hydro Plan and First Nations Delivery Credit
 - a. Update on the Delivery Credit Implementation
 - b. Eliminating Delivery Costs on Band Buildings
 - c. Update on the Affordability Fund
 2. Long Term Energy Plan 2017
 - a. Opportunities for First Nations
 - b. Opportunities for collaboration
 3. Hydro One Transaction
 4. Updates
 - a. Ministry

- b. Hydro One
- c. IESO
- d. OPG
- e. OEB
- f. Grievance Process
- g. Watay Power
- h. National First Nations Energy Strategy (AFN)

NOTES ON AGENDA ITEMS:

1. Ontario's Fair Hydro Plan & First Nation Delivery Credit

1a) Update on the Delivery Credit Implementation

- The First Nation Delivery Credit was implemented on July 1, 2017. Eligible First Nation customers began seeing the credit on their bills in August 2017. This initiative will provide residential customers on reserve with an average monthly benefit of \$85 for approximately 21,500 on-reserve First Nation residential customers.
- Section 79.4 of the OEB Act provides for a delivery credit to offset the costs that make up the delivery line for on-reserve consumers, paid for through funds appropriated by the Legislature. It also provides for regulation making authority to define who is an on-reserve consumer and what areas constitute a "reserve".
- The central piece of the First Nation Delivery Credit regulation surrounds the eligibility criteria. The regulation limits eligibility to all First Nations residential on-reserve customers, regardless of whether the customer is seasonal or permanent. The definition of key terms, such as "reserve", "member of a band", are taken directly from the traditional meaning provided in the Indian Act.
- As of the October billing cycle the LDCs have reported that 20,388 First Nation residential on-reserve customers are now receiving the FNDC.
- The First Nation On-Reserve Delivery Credit is funded by provincial revenues, for a total annual cost of approximately \$20 million **[confidential]**.

Suggested Response:

- **Ontario's Fair Hydro Plan provided an opportunity to do something significant about the high costs of electricity faced by your community members living on-reserve.**

- I am very pleased to say that over 20,000 First Nation on-reserve customers are currently receiving the First Nation Delivery Credit, eliminating all delivery charges and making their electricity far more affordable.
- Let's take a moment to acknowledge the positive impacts of our collaborative efforts.

Background:

- On March 2, 2017, the Province announced Ontario's Fair Hydro Plan (OFHP), which proposes new measures to lower electricity bills by 25 per cent on average for residential electricity customers, as well as initiatives to reduce costs for low-income consumers, First Nations and small manufacturers.
- The Ministry of Energy worked with a number of ministries (i.e., MOF, TBS/OPCD, MAG and CO), energy agencies (i.e., OPG, OEB and IESO), external advisors and local distribution companies (LDCs) on the development of legislation, regulations and ongoing implementation.
 - On April 10, 2017, Ontario expanded the Industrial Conservation Initiative (ICI) to include manufacturers and greenhouses with peak demand from 500 kW to 1 MW.
 - On June 1, 2017, the *Fair Hydro Act, 2017* (FHA) received Royal Assent.
 - As of July 1, 2017, the full impact of the OFHPA reductions is in effect.
- Through the Rate Mitigation Implementation Group and subcommittees, the Ministry of Energy continues to work through implementation of the following OFHP initiatives:
 - GA Refinancing;
 - Electricity Support Programs (i.e., Rural or Remote Rate Protection, Ontario Electricity Support Program, First Nation On-Reserve Delivery Credit); and
 - The Affordability Fund.

1b) Eliminating the Delivery Costs on Band Owned Buildings

- Through the FNDC Working Group the Chiefs Committee on Energy had requested that the FNDC include Band owned buildings; however, to achieve FHP timelines, all agreed to focus on First Nation on-reserve residential customers.
- At a meeting with Ministry staff on November 9, 2017, the Chiefs Committee on Energy requested that Band owned buildings be included in an expanded FNDC in a timely fashion.
- Due to confidentiality restraints the Ministry isn't able to receive customer information directly from the LDCs to assess the costs of expanding the FNDC program to include Band owned buildings.

- The Chiefs Committee on Energy is aware the FNDC is tax based program and Chief Hill has committed to reach out to First Nations through COO to collect information on delivery costs for band owned buildings to assist the Ministry with determining the costs of expanding the FNDC by the end of November.

Suggested Response:

- **I have heard your request to expand the First Nation Delivery Credit to include Band Owned buildings. There will be many challenges to overcome given the program is funded through the tax base.**
- **I am prepared to continue our discussions; however, this will first require concurrence with the Ministry of Finance and Treasury Board.**
- **I understand the Chiefs Committee on Energy is reaching out to all First Nations to gather information on the delivery costs for Band owned buildings.**
- **This information will be very helpful for us to assess the potential costs of an expanded program, and I look forward to receiving it.**

Background:

- The Ministry of Energy, in collaboration with the Chiefs of Ontario (COO), crafted policy in a manner which best reflects the needs and wishes of First Nations to ensure the implementation of the credit on July 1, 2017.
- The Ministry suggested a narrow approach to the Chiefs Committee on Energy to consider just critical infrastructure like water plants and the idea was rejected by the Chiefs.
- Buildings identified as Band owned buildings are as follows, but not limited to and recognizing that not all communities have similar infrastructure:
 - Arenas
 - Health Centres
 - Administration buildings
 - Senior Centres
 - Community Centres
 - Schools
 - Water plants

1 c) Update on Affordability Fund

- The Affordability Fund Trust consulted with electricity distributors over summer 2017 to inform program design. The ministry understands that feedback highlighted the importance that program design be an iterative process and be flexible to accommodate future changes.

- To the ministry's knowledge, no IPAs or First Nations-owned LDCs (Attawapiskat, Kashechewan, Fort Albany) participated.
- On October 24, 2017, the Affordability Fund was launched through a formal announcement and press release. The press release included information regarding a toll-free number and website through which customers are able to submit an "Application for Support". The Trust also held a webinar for electricity distributors on the day of the launch.
- The Trust, with administrative support from Hydro One, plans to negotiate program implementation agreements with electricity distributors starting December 2017.
- First Nations consistently identified poor housing stock as a significant challenge during the LTEP engagement sessions. COO may request a dedicated funding set-aside for First Nation within the Affordability Fund that must be spent by LDCs with a First Nation customer base.

Suggested Response:

- **I understand that poor housing stock and capacity in First Nation communities presents challenges to participating thoroughly in conservation programming.**
- **While the Affordability Fund was launched on October 24, 2017, the Fund is committed to making adjustments on a regular basis, to ensure that it is delivering support to those customers in need, in all parts of the province.**
- **I encourage you to provide your perspectives on the Affordability Fund to the Trust, including how it can address the unique challenges facing First Nations people living on-reserve.**

Background:

- Ontario's Fair Hydro Plan established an Affordability Fund to help Ontarians who don't qualify for low-income conservation programs to make energy efficiency improvements to their homes, where this couldn't otherwise be done without the support.
- Established through the tax base, the Fund is being administered by an independent Trust and is accessible to electricity distributors, including LDCs and independent power authorities (IPAs) serving First Nations communities.
- The Board of Trustees for the Trust includes representation from United Way Ottawa, the Neighbor to Neighbor Centre, Thunder Bay Hydro, Hydro One and Alectra.
- ENERGY (CRED ADM) is represented on the Board, with non-voting status.

2. Long Term Energy Plan 2017

- The Chiefs may raise a concern that they were not provided an opportunity to review of the draft LTEP prior to it being published. They would like to discuss the opportunities for First Nations and consider ways to collaborate going forward.
- COO acknowledges the work Ontario has done on the Long Term Energy Plan, recognizing points of collaboration with First Nations and especially supporting the foundational principle of protecting Mother Earth through energy conservation and greenhouse gas reduction.
- Ontario Regional Chief Day requests that First Nations need to be equal partners through inclusion in participatory processes and policy development that will drive the implementation of LTEP 2017.
- Ontario Regional Chief Day has identified the concept of a First Nation Power Authority as an initiative that will advance First Nations relationships in the energy sector.

Suggested Response:

- **Previous LTEPs identified the importance of Indigenous participation in the energy sector.**
- **Ontario will continue to build on the direction established in the 2013 LTEP and support First Nation leadership and capacity in an evolving energy sector by:**
 - **Continuing to advance the connection of remote First Nations to the grid and working with the communities that are not economic to connect to the grid to reduce their reliance on diesel generated power through innovative, community-specific solutions.**
 - **Promoting community energy planning and supporting projects and initiatives identified in those plans, such as conservation and community-scale generation.**
 - **Working with Indigenous communities on electricity affordability, improving conservation programs and finding ways to remove barriers to project funding and financing.**
- **Ontario is committed to advancing the government's relationship with First Nations in the spirit of the Political Accord. Ongoing engagement with First Nations on energy issues will help strengthen this relationship.**

- **I am interested in hearing your ideas on how we can improve the processes we have in place such as the Energy Table and how you would like to interact with agencies like the OEB or IESO? IESO is here to talk about how they plan on engaging with First Nations to seek input in implementation plans for the LTEP.**

Background:

LTEP 2017

- Between October 2016 and January 2017, the government engaged with industry experts, Indigenous communities and organizations, businesses and Ontarians across the province.
 - 17 meetings were held with representatives from nearly 100 Indigenous communities and organizations
- LTEP 2017 Delivering Fairness and Choice launched on October 26, 2017 includes the following key initiatives to Supporting First Nation and Métis Capacity and Leadership:
 - Government to review programs to improve availability of conservation programs for First Nations and Metis, including communities served by Independent Power Authorities
 - The Province, working with the federal government, will continue to prioritize the connection of remote First Nation communities to the grid and support the four First Nation communities for which transmission connection is not economically feasible
 - Aboriginal Community Energy Plan program will be expanded to help communities implement their energy plans and support Ontario's Climate Change Action Plan.
 - Ontario to engage Indigenous communities to explore options for supporting energy education and capacity building, the integration of small scale renewable energy projects, net metering and other innovative solutions that address local or regional energy needs and interests.
 - Innovative financing models and support tools will be investigated to address barriers to financing of projects led or partnered Indigenous communities.
 - Ontario will report back to First Nations and Métis between Long Term Energy Plans to provide updates on the province's progress and seek ongoing feedback.
 - The Natural Gas Grant Program will support the expansion of natural gas access to First Nation communities.
- Upon publishing the 2017 LTEP, the Minister of Energy will direct the IESO and the OEB to develop implementation plans. For the 2017 LTEP, these directives will be issued by the Minister.

- Agencies are required to prepare implementation plans based on the directives and submit them to the Minister for review by January 31, 2018.
- Once the Minister of Energy approves the plans, the province, the IESO, and the OEB will move forward with implementation.

First Nation Power Authority:

- COO has not provided information on the concept of a First Nation Power Authority which may be linked to past requests for First Nation representation on the OEB and the IESO to be more active participants in the decision making processes in the energy sector and address the capacity needs of COO.
- ENERGY may consider expanding the First Nations-Ontario Energy Table to include a Technical Table to actively engage COO/First Nations to undertake work on initiatives in between meetings of the Energy Table as alternative approach.
- It is likely COO will pursue capacity funding to enable their participation in a technical table. With the release of LTEP 2017 and its focus on implementing Aboriginal Community Energy Plans (ACEPs) the Ministry will need to try to balance the capacity needs at the political level and the capacity needs at the community level.

First Nations-Ontario Energy Table:

- Ontario established the Energy Table as a forum for discussions with First Nation Leadership on priority energy issues. The inaugural meeting of the Energy Table was held on February 23, 2015.
- The original concept of the First Nations-Ontario Energy Table included a Technical Table component that never got started. COO has recently been inquiring about establishing a Technical Table to discuss energy issues on a more consistent basis at the staff level.
- The most recent Energy Table meeting was held in Batchewana First Nation on March 10, 2017. The successful development of the First Nation Delivery Credit as announced at this meeting.

OEB Representation:

- Preliminary discussions took place between OEB, Ministry of Energy and COO about First Nation representation on the OEB Board of Directors. However, a board position may not achieve the desire for greater First Nation perspectives in OEB decisions, given the requirement of the Board for impartial decision-making.

- Other options for Indigenous involvement at the OEB were explored and the OEB welcomed ideas from First Nations to have further participation and representation at the OEB.
- The Chair of the OEB wrote to select First Nation Leadership to request their views on exploring different options to enhance representation at the OEB in January 2016. COO may have re-evaluated this approach and has not continued to raise this issue.

3. Hydro One Transaction

- On July 12, 2016, the Province and First Nations in Ontario announced an agreement-in-principle for the Province to sell to First Nations, for their collective benefit, shares of Hydro One Limited, enabling First Nations to participate in the broadening of ownership of Hydro One.
- Progress in receiving Equity Participation Commitments (EPCs) from First Nations communities has been slower than expected.
- COO is considering approaches to offer support to First Nations on completing the approval packages in hopes of streamlining the process.
- COO had originally targeted closing by end of October, COO is now targeting November 17, 2017 to achieve 117 commitments from First Nations communities, which would exceed the minimum 80% threshold (or 106 communities) required to close.
- The closing cannot occur before December 29, 2017 unless 100% participate. COO expects the closing date to be close to December 29

Suggested Response:

- **We have come a long way since our initial discussions in August 2015 and the Agreement-in-Principle in July 2016 to address First Nations interests in the broadening of ownership of Hydro One.**
- **I am sure you all have been working very hard to assist First Nations to assess and participate in this transformative opportunity, and I would be pleased to see the minimum 80% threshold reached to close the transaction by the end of 2017.**
- **I would prefer to see all First Nations enjoy benefits of this hard won economic opportunity to build long-term wealth for your communities.**
- **I look forward to seeing this historic and transformative transaction cross the finish line!**

Background:

Hydro One Agreement-in-Principle:

- COO indicated that it would not oppose the government's sale of Hydro One shares to the public given that the Province has entered into commercial discussions for an equity position by First Nations and is holding enhanced discussions with communities to address the legacy of historic grievances and points of friction between First Nations and Ontario's energy sector.
- On July 12, 2016, the Province and First Nations in Ontario announced an agreement-in-principle for the Province to sell to First Nations, for their collective benefit, shares of Hydro One Limited. The Province and the Chiefs Committee on Energy continue to work towards completing definitive agreements for the sale of Hydro One shares.
- The Province would sell up to approximately 15 million shares (2.5 per cent of total current outstanding Hydro One common shares), depending on the level of First Nation participation, to a new collective investment vehicle owned by First Nations.
- The First Nations investment vehicle would purchase the shares with a 25-year loan provided by Ontario. The interest rate for the loan would be the Province's relevant borrowing rate, plus 15 basis points. The purchase would be at \$18 per share, which is above the Province's book value for the shares.
- This would be a 25-year deal that can provide 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.
- In addition to the benefit of investing collectively in Hydro One, the Province would also provide seed capital of up to \$45 million in cash to the First Nation investment vehicle over, depending on the level of First Nation participation

Capacity Funding

- COO has submitted a funding request for Phase 3 to the Ministry for review
- Ministry has responded to COO on October 5th asking for greater budget detail and has requested the Phase 3 proposal be re-submitted
- On November 10, 2017 the Chiefs of Ontario re-submitted two capacity funding proposals:
 - Hydro One Equity Acquisition - Ontario First Nation Sovereign Wealth Fund
 - \$2,017,000.00 requested
 - Energy Technical Table and Energy Roundtable

- \$165,000.00 requested
- Ministry is currently reviewing the proposals and will develop TPA as appropriate.

4. Updates:

4a) Ministry

- It is unclear what COO hopes to have addressed under this agenda item. ENERGY may wish to use this time to raise our hopes that COO is able to achieve the 80% target for finalizing the Hydro One transaction (see speaking points at end of note).

4b-4e led by other meeting participants

4f) Grievance Process:

- While a general update is appropriate on the overall process of the Grievance Table, the Energy Table is not an appropriate forum to discuss the specifics of each First Nation currently participating.
- COO may be seeking a way to keep the Grievance Table process active post ratification of the Hydro One transaction and/or creating further assurances for the Chiefs to provide greater comfort for them to ratify the Hydro One deal.

Suggested Response:

- **I am pleased to say that we have made significant progress in addressing historical grievances with the individual First Nations that have worked through the Grievance Table process.**
- **I am especially pleased that we have addressed the number one grievance identified by First Nations which was the high cost of electricity.**
- **I would like your thoughts on the Grievance Process to date and what we may consider going forward.**

Background:

- ENERGY has agreed to discuss First Nation specific grievances that are broader than transmission and distribution infrastructure, as was previously discussed between COO and the Minister to support the discussions on broadening of ownership of Hydro One.
- The Ministry has worked to address the grievances brought forward by the Chiefs of Ontario over the last year:

1. Six Nations is currently consulting it's community on a proposed deal to have the Niagara Reinforcement Project completed
 2. Constance Lake First Nation grievance is settled
 3. Serpent River First Nation grievance is settled
 4. Chippewa of the Thames First Nation is working with Hydro One to address their Indian Act Permit issue for transmission facilities crossing reserve lands
- No additional First Nations have been identified by COO for the grievance process

4g) Watay - Remote First Nation Communities

- In LTEP 2017, the Province, working with the federal government, will continue to prioritize the connection of remote First Nation communities to the grid and support the four remote First Nation communities for which transmission connection is not economically feasible.
- COO is supportive of transmission connection for the 21 remote First Nation communities
- Wataynikaneyap Power is a transmission company equally owned by 22 First Nations communities and FortisOntario that will develop, own, and operate new transmission facilities in Northwestern Ontario in order to connect 16 remote First Nation communities currently powered by diesel generation.
- Ontario is continuing to engage with the federal government to negotiate a fair cost sharing agreement

Suggested Response:

- **The connection of remote First Nation communities remains a priority in LTEP 2017 *Delivering Fairness and Choice* as a key step towards providing a reliable, clean and affordable energy future for these communities.**
- **In addition to the communities identified in Watay's current plan, there are five other remote First Nation communities that the Ministry is interested in working with to pursue options for grid connection.**
- **With continued dialogue among First Nation communities, Ontario is confident that transmission development can proceed in a manner that benefits all interested and potentially affected communities.**
- **We are committed to continuing to work with our federal counterparts to make this project a reality.**

- **For the remaining four First Nation communities that are not economic to connect to the grid, the government is supporting these communities as they work with IESO to explore innovative on-site solutions to reduce their dependency on diesel fuel.**

Background:

- There are 25 remote First Nations in Northwestern Ontario currently without grid access (see Attachment 1). The communities rely on local diesel generators.
- The First Nations have a combined on-reserve population of approximately 15,000 and peak electricity demand is approximately 20 MW.
- Remote First Nation communities are either served by Hydro One Remote Communities Inc. (RemoteCo) or locally owned Independent Power Authorities (IPAs).
 - **RemoteCo:** A subsidiary of Hydro One Networks, RemoteCo is regulated by the Ontario Energy Board (OEB), and receives the Rural or Remote Rate Protection (RRRP) subsidy, funded by Ontario ratepayers.
 - **IPAs:** not regulated by the OEB and do not receive RRRP. IPAs receive subsidies from Indigenous and Northern Affairs Canada.
- The federal government is responsible for capital upgrades to the electricity systems in all communities (e.g. new or expanded diesel systems as communities grow).
- Annual cost to service these 25 remote First Nation communities was estimated in 2014 by the IESO to be about \$90M. Residential and business customers in remote First Nation communities pay approximately 9% of this cost of service; the balance is covered through federal and provincial subsidies.

4h) National First Nations Energy Strategy (AFN)

- COO has requested capacity funding to support the Ontario region's input into the First Nation National Energy Strategy.
- COO will work with IESO to understand First Nation-specific information gathered for LTEP 2017 that can be utilized for National Energy Strategy
- The IESO provides \$100,000 annually to COO for one 1 FTE to support their capacity to participate in the energy sector
 - It isn't clear how the FTE is being utilized by COO to support their capacity in the energy sector
 - COO currently has the FTE listed as supporting the Environment portfolio

Suggested Response:

- **I would like to hear more about how First Nations in Ontario are expected to benefit from the National First Nations Energy Strategy, given the number of existing opportunities for First Nation participation in the energy sector here in Ontario.**
- **How will this initiative relate to First Nations in Ontario developing and implementing community energy plans?**

Background:

- The Assembly of First Nations (AFN) passed a resolution to develop a First Nations Energy Strategy at the 2017 Annual General Assembly in Regina, Saskatchewan.
- COO is requesting financial support to attend the AFN meetings to begin work on developing a First Nations Energy Strategy.
- The meeting dates and locations are not known at this time.