Ontario

LEGISLATION AND REGULATIONS COMMITTEE: MINISTRY APPROVAL FORM

LRC Tracking #:
EVista Tracking #:

Ministry of Energy

Strengthening the regulatory oversight of the Ontario Energy Board over Unit Sub-Meter Providers

Regulation and Order in Council

Profile at a Glance

Priority: Commitment
Public Interest: Medium
Key Stakeholder Interest: High
New Costs/Burdens: Yes for Stakeholders; No for Government; Yes for electricity rate payers
New Savings/Opportunities: No for Stakeholders; No for Government; No for electricity rate payers

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Proposed Items for Review

1. Amending the Assessment of Expenses and Expenditures Regulation (O. Reg. 16/08) under the *Ontario Energy Board Act, 1998.*

2. Order in Council to proclaim Sections 38 (13), (14), (16) and (17) of the *Energy Consumer Protection Act, 2010* which amends sections 78(2.3), 78 (3), 78 (6)(c) and 78(9) of the *Ontario Energy Board Act, 1998* into force .

Approvals required prior to LRC

	Committee and date	Cabinet Date
Policy	N/A	July 26, 2017
TB/MBC	N/A	N/A

Deputy Minister　　　　Date

Minister　　　　Date

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LRC Ministry Approval Form – version 10.03

s. 1 Proposal and Context

- Unit sub-meter providers (USMPs) are privately owned companies that provide metering services to multi-unit residential buildings so that individual unit residents can be billed for electricity based on their individual consumption levels.

- USMPs are licensed by the Ontario Energy Board (OEB) and must conduct their business in compliance with the OEB's Unit Sub-Metering Code but they are not rate regulated. Therefore, they can charge customers in multi-unit residential buildings an administration charge that is not reviewed nor approved by the OEB.

- Consumers have told both the Province and the OEB that they would like to know more about what they are being asked to pay for by USMPs.

- On July 26, 2017, Cabinet approved initiatives to be implemented in the 2017 Long Term Energy Plan (LTEP).

- As a result of this submission, Cabinet directed the Ministry of Energy (ENERGY) to increase consumer protection by proclaiming provisions in the *Ontario Energy Board Act, 1998* (OEBA) to increase the Ontario Energy Board's (OEB) regulatory authority over unit sub-meter providers (USMPs).

- Accordingly, the proposed proclamation OIC would name April 1, 2018 as the date for which Sections 78(2.3), 78 (3), 78 (6)(c) and 78(9) of the OEBA would come into force.

- The proposed amendment to the Assessment of Expenses and Expenditures Regulation (O. Reg. 16/08) under the *Ontario Energy Board Act, 1998* would complement proclamation of these provisions and would support the OEB in the exercise of its regulatory authority over USMPs by allowing it to assess USMPs with respect to expenses incurred and expenditures made by the OEB in the exercise of its powers and duties.

- This proposal would bring all market participants to the same level of oversight by the OEB.

s. 2 Approach and Intended Outcomes

Proclamation OIC

- The proposed OIC would name April 1, 2018 as the date upon which Sections 38(13), (14), (16), and (17) of the *Energy Consumer Protection Act, 2010* (ECPA) come into force.

- These sections amend the OEBA as follows:
    - Section 38 (13) amends section 78(2.3) of the OEBA to prohibit USMPs from charging for unit sub-metering without an order from the OEB.
    - Section 38(14) amends section 78(3) of the OEBA to authorize the OEB to make orders approving or fixing rates for unit sub-metering.
    - Section 38(16) amends section 78(6)(c) of the OEBA to authorize the OEB to include conditions, classifications or practices to a rate order issued to a USMP.
    - Section 38(17) amends section 78(9) of the OEBA to allow the OEB of its own motion or at the request of the Minister to commence a proceeding to determine if rates are reasonable

- There are two provisions that the Ministry does not intend to proclaim: sections 38(12) and 38(15) of the ECPA which amend sections 78(2.2) and 78(3.0.0.1)), respectively, of the OEBA.
    - The first relates to charging costs for unit smart-metering, which is currently performed by Local Distribution Companies (LDCs) as a regulated distribution activity. This provision is therefore unnecessary. The second would allow the government to create a regulation to allow the Board to make orders for rates for certain classes of consumers and in different circumstances. Such a regulation is not currently contemplated.
    - The Ministry should amend the OEBA at a later date to repeal these un-proclaimed amendments.

Assessment of Expenses and Expenditures Regulation (O. Reg. 16/08)

- The OEB recovers the majority of its regulatory expenses and expenditures from entities that it regulates.
    - The OEB is authorized under section 26 of the OEBA to assess certain entities or classes of entities with respect to all expenses incurred and

expenditures made by the OEB in the exercise of its powers and duties.

  - The entities that can be assessed under this section are prescribed in O. Reg. 16/08. Energy sector participants including gas and electricity utilities, electricity retailers and gas marketers are currently assessed OEB costs, but USMPs are currently not.

  - The OEB incurs costs in regulating USMPs, including resources for licensing USMPs and handling consumer inquiries and complaints with respect to USMPs.

- To support the additional work that the OEB would undertake as a result of the proposed strengthened regulatory authority over USMPS, ENERGY also proposes to add USMPs as entities that are liable to pay OEB cost assessments under section 26 of the OEBA.

- The proposed amendment would allow the OEB to assess costs related to the oversight of the USMPs and invoice them accordingly. The proposed date for this regulatory amendment to be in effect would be April 1, 2018.

s. 3 Direction and Urgency

- On July 26, 2017, Cabinet directed ENERGY to prepare a 2017 LTEP with an objective of ensuring affordable and accessible energy.

- Cabinet further directed ENERGY to implement the initiatives identified in the 2017 LTEP, including increasing consumer protection by strengthening the OEB's regulatory authority over USMPs through the proclamation of certain provisions in the OEBA.

- Accordingly, ENERGY proposes to proclaim sections 78(2.3), 78 (3), 78 (6)(c) and 78(9) of the OEBA into force to extend the OEB's rate-regulation authority over USMPs, in addition to its current authority over LDCs and transmitters. ENERGY has proposed a proclamation OIC designed to bring those provisions into force on April 1, 2018.

- To complement the OEB's rate-regulation authority, ENERGY proposes to add USMPS to the list of entities that can be assessed a portion of the OEB's costs incurred in the exercise of its powers.

- To ensure consistency, both the legislative and regulatory provisions must come into force at the same time. Therefore the proposed amendment to O. Reg. 16/08, would, if approved, come into force on April 1, 2018.

s. 4 Impact Assessment and Costs

Ontario Energy Consumers

- The regulatory amendment and the proclamation of sections in the ECPA amending the OEBA would provide increased protection to Ontarians who are serviced by USMPs.
- By allowing the OEB to rate regulate USMPs, the process would be transparent and open to consumers. Many customers now do not know the details of the amount that is charged by the USMPs.
- Consumers may or may not see an increase to their bills with this proclamation and regulatory amendment.

Unit Sub Meter Providers

- This proclamation and regulatory amendment would impose an increased regulatory burden on the USMPs. Depending on the process that the OEB develops, they may be obligated to file a “rate application” to the OEB to have their rates approved before billing their customers.
- There would be an added cost to the USMPs for the assessment of the regulatory oversight by the OEB
- The increased oversight by the OEB and the assessment of costs to the USMPs would be offset by the consumer protection that would benefit all consumers that interact with USMPs.
- It would also ensure that all market participants pay their fair share of the OEB costs.

Government

- There will be no costs to ENERGY or any other government ministry.
- There will also be no savings opportunities as a result of these proposals.

- There may be increased costs associated with enforcement of the new provisions, as USMPs transition to a new regulatory framework.

- The OEB may need to amend where appropriate its codes, rules and other documents and website content as necessary.

- With the passing of the regulation, the OEB would be able to recover costs through the existing cost recovery mechanism.

s. 5 Implementation

- If the amendments to O. Reg. 16/08 and the Proclamation OIC are approved, then April 1, 2018 would be the date upon which the legislative and regulatory amendments would come into force.

- This coincides with the fiscal year of the OEB and would allow for sufficient time for the OEB to stakeholder where necessary and update codes and guidelines for the USMPs.

s. 6 Delivery and Results Tracking

- ENERGY and the OEB would monitor the rate applications made by USMPs to the OEB and identify the impact to customers.

- ENERGY and the OEB would measure the success of this proposal through an internal analysis of consumer complaints made to ENERGY and the OEB with respect to USMP charges. This would be a comparative evaluation of complaints before and after the proposed amendments come into force.

s.7 Stakeholder Consultations

- In late October 2017, ENERGY posted the proposal to the Regulatory Registry for 27 days.
  - X stakeholders….

Commented [ML(1]: To be concluded once comments are received from posting.

- The OEB would decide if additional stakeholdering is necessary as it develops its processes for implementing both the regulatory and legislative changes. It may decide to stakeholder on the level of oversight applicable to USMPs.

s.8 Other Jurisdictions and Harmonization

- USMPs operate in other provinces in Canada, including British Columbia and Alberta, but are not rate regulated.
- There would be no harmonization with other jurisdictions as an effect of this proposal.

s. 9 Communications

- There will be a need to clearly communicate that the amended regulations and the proclamation of regulations are expected to be in force by April 1, 2018.
- The communications will identify that these changes complement and support the current activities of the OEB and will ensure that the USMPs are treated the same as all other market participants.

s. 10 Contacts and Appendices

Contacts

	Name	Phone Number
Ministry Policy/Program	Carolyn Calwell	
Ministry Legal	Maud Murray	
Ministry Communications	Vanessa Visheau	
Assistant or Deputy Minister's Office	Jeet Chatterjee	
Cabinet Office Policy		

Appendices

List the included appendices
Appendix A: Regulation Comparison Chart
Appendix B: Proposed Regulation
Appendix C: Order in Council