Ontario

LEGISLATION AND REGULATIONS COMMITTEE
BRIEFING NOTE

Energy
Electricity Rate Mitigation

CAB	TB/MBC	LRC	CAB	Effective Date
Sept. 12, 2016	Sept. 12, 2016	Nov. 14, 2016	Nov. 16, 2016	January 1, 2017

Summary of Proposal

The following proposal contains a variance from Cabinet direction, which is detailed in the Cabinet Office Analysis section of this note and attached variance memo.

Context for Decision:

On Sept. 12, 2016 the Ministry of Energy received Cabinet Approval to introduce legislation that would enable a broader Electricity Rate Mitigation Strategy for electricity consumers across the province. On September 15, the Minister of Energy introduced Bill 13, the *Ontario Rebate for Electricity for Electricity Consumers Act, 2016,* (ORECA) that puts in place an 8% rebate for residential, small business customers and farms. Bill 13 is scheduled to come into force on January 1, 2017. In addition to the 8% rebate, enabled through the ORECA, amendments to existing regulations would enable the other elements of the broader mitigation strategy.

Summary of Proposal:

To implement the rate relief provided for under Bill 13, as well as the other elements of the broader rate mitigation strategy, a number of additional regulations and regulatory amendments are needed.

1. Creating a new General regulation under the *Ontario Rebate for Electricity Consumers Act, 2016*.

   This proposed new regulation will provide the necessary mechanics to support the implementation of the 8% rebate. Provisions in this regulation include direction on:

   - Base invoice amounts for invoices (direction on what amounts should be included in the calculation of the 8% rebate).
   - Flow through of financial assistance (direction on passing through the rebate to eligible consumers).

    - Records keeping, reimbursement requirements for vendors, financial assistance re: fees and charges imposed by unit sub-meter providers.Eligibility to receive the rebate for remote communities that are serviced by Independent Power Authorities.

    - Amending O. Reg. 442/01(Rural or Remote Electricity Rate Protection) made under the *Ontario Energy Board Act, 1998*.

- This proposed amendment will update the Rural or Remote Rate Protection (RRRP) program, to provide increased rate relief to eligible rural customers (low-density customers of Hydro One). The increased subsidy would result in an approximate increased monthly subsidy from $31.50 to $60.50.
- The original cabinet minute approved an increase of $110 million. Hydro One has provided updated numbers of eligible customers and ENERGY is seeking an additional 6.4 million in order to fulfill the intention of the proposal.

2. Amending O. Reg. 429/04 (Adjustments under Section 25.33 of the Act) made under the *Electricity Act, 1998.*

    - This regulation governs how the Global Adjustment is charged to different classes of electricity consumers. This includes setting eligibility requirements for being a Class A consumer (i.e., a participant in the Industrial Conservation Initiative).
    - This proposed amendment would provide eligible electricity consumers with an average monthly peak demand between 1 megawatt (MW) and 5 MW with the opportunity to participate in the Industrial Conservation Initiative. Current sector restrictions would be removed allowing smaller institutional and commercial businesses to be eligible. Newly eligible consumers will have to opt-in, should they wish to participate.

4. Amending O. Reg 495/10 (General) made under the *Ontario Clean Energy Benefit Act, 2010.*

    - For the period of 2011-2015 the Ontario Clean Energy Benefit provided certain consumers with a credit of ten percent of the total cost of electricity. On September, 1, 2012, a 3,000 kilowatt hour per month cap was implemented. The credit was put in place as a temporary measure, and there is currently no cut-off date for retroactive payments.
    - The proposed amendment will prescribe a cut-off date for electricity consumers to submit Ontario Clean Energy Benefit claims to service providers, and a second cut-off date for licensed distributors and sub-meter providers to submit invoices.

5. and 6. Amending O. Reg. 275/04 (Information on Invoices to Certain Classes of Consumer of Electricity) made under the *Ontario Energy Board Act, 1998* and O. Reg 161/99 (Definitions and Exemptions) made under the *Ontario Energy Board Act, 1998*.

- These proposed amendments are consequential to the implementation of the *Ontario Rebate for Electricity Consumers Act, 2016.*

Why does Ontario need these changes? Why now?

Electricity costs have been increasing as investments have been made to decarbonize and modernize the province's electricity infrastructure. Since 2010, electricity prices have risen considerably, particularly for households and small businesses.

The Ministry of Energy and Ministry of Finance were asked to develop a proposal to provide rate relief to Ontario electricity consumers. On September 12, in the Speech from the Throne, the government committed to introducing measures that would provide consumers with rate relief on their electricity bills.

What is the expected cost to government?

The 8% rebate is expected to cost about $1.2 billion per year (approximately $4 billion from 2017-2020). Other smaller incremental costs to government include that LDCs and other providers will likely incur some costs with updating their systems, however as the LDCs recently delivered the OCEB set up costs should not be substantial, and increased administrative costs or borrowing costs for the IESO.

The Ministry also plans to use cap and trade proceeds to mitigate electricity prices for commercial and industrial consumers. A proposal for the use of proceeds will be brought forward to the Ministers Table on Climate Change in late 2016.

The cost of RRRP program expansion will be shared across the electricity rate base, and is estimated to cost approximately $0.60/month for the average residential customer. The total additional cost of the RRRP is $116.4 million, pending Cabinet approval of the additional support for the RRRP.

The ICI, for the electricity system as a whole, does not result in any additional costs. The expansion of ICI will shift some electricity system costs from new Class A electricity consumers to remaining Class B consumers, resulting in an approximate 0.5% increase in electricity bills for these remaining Class B consumers.

Commented [MC1]: Are these costs passed on to the crown? What would the impact be if the costs were higher than anticipated?

Commented [MC2]: Are these passed on to the crown?

Commented [MSL3]: Any costs associated with the IESO's implementation of the program would be incorporated into the IESO's operating budget and would be recovered through the standard cost recovery mechanism. The IESO is funded through an OEB approved regulatory charge imposed on all customers. There is no direct crown funding for the IESO.

Note: administrative costs to IESO related to ICI are not expected to be substantial as it already administers ICI.

Commented [MSL4]: Doing this would contravene the commitment under the Climate Change Action Plan to keep electricity rates affordable (action #4.4) as well as Budget Commitments to recycle GGRA proceeds.

Terms you need to know

- **Local Distribution Companies (LDCs)** – Local electricity utilities, responsible for distributing power from transmission lines to people's homes (e.g., Hydro Ottawa, Toronto Hydro, etc.)
- **Regulated Price Plan (RPP)** - Since April 2005, the Ontario Energy Board (OEB) has administered an electricity price plan that provides stable and predictable

electricity pricing, encourages conservation and ensures the price consumers pay for electricity better reflects the price paid to generators. This pricing plan is known as the Regulated Price Plan (RPP). About 5 million residential consumers, small businesses and farms are eligible for the RPP.

- **Class B Electricity Consumer** – commercial, institutional and small industrial electricity consumers, with load size between 0.05 – 5 MW who are not eligible for or choose not to participate in the Industrial Conservation Initiative. Class B consumers pay GA as a flat rate (i.e., $/kilowatt-hour) applied to electricity consumption.
- **Class A Electricity Consumer** – large commercial and large industrial electricity consumers with average peak load size greater than 5 MW, and since July 1, 2015, electricity consumers operating in select electricity-intensive sectors with average monthly peak demand greater than 3 MW and less than 5 MW, subject to their industrial sector eligibility. Class A consumers pay GA based on their electricity consumption during the five highest peak demand hours during the year.

Cabinet Office Analysis

Following the Speech from the Throne and the introduction of the ORECA in September, Ontarians are expecting to see electricity rate relief in January 2017. This proposal provides the mechanisms to implement this commitment. There is urgency to implement this proposal so that the direction can be implemented in a timely manner (e.g. so that bill issuers can prepare Customer Information Systems for setting new RRRP rates and calculate associated benefits, so that LDCs have time to prepare for the expected increase in the ICI program, all in advance of the January implementation). The following regulations and regulatory amendments are being proposed:

1. <u>General Regulation</u>

The proposed General Regulation under the Ontario Electricity Rebate Act, 2016 will put in place a framework very similar to the framework developed to deliver the Ontario Clean Energy Benefit. The legislation and regulation provides instruction and clarity to LDCs on the 8% rebate and how it is to be calculated (e.g. rebate is calculated before taxes, clarifies that the rebate is applied to those receiving OESP (Ontario Electricity Support Program) post-OESP amount).

The proposed regulation also provides an outline on how the payments flow through to customers. Through the proposed General Regulation, a parallel process will be created to ensure that Independent Power Authorities and have the opportunity to participate and have their customers receive the provincial rebate. There were six communities that did not enroll to receive the OCEB. These communities would be eligible for the 8% rebate, but would need to go through the enrollment process.

2. Rural or Remote Electricity Rate Protection (RRRP) Expansion –Regulation

The RRRP framework was put in place to ensure that all Ontario residents pay similar prices for electricity distribution. The Ministry of Energy is seeking to increase the amount of rate protection available for eligible rural or remote electricity customers. Under the RRRP regulation the amount of rate protection available to Hydro One's R2 customers (residential customers who are classified as low density) is capped at a fixed amount of $127 million – which amounts to a monthly subsidy of $31.50.

Variance from cabinet direction: In September cabinet approved a proposal for an additional $110 million in program funding that was intended to create an increased benefit of approximately $29/month. Current funding for the RRRP program is paid for by all electricity customers across the province. The current monthly charge is approximately $1. The additional monthly cost for an average residential consumer was estimated to be approximately $0.60. In a variance from what Cabinet has approved, the Ministry of Energy is proposing to increase rate protection for eligible customers by $116.4M (the variance being additional $6.4M, based on revised numbers of eligible customers). The additional $6.4 million being sought will have a marginal increase on the monthly cost for an average residential customers.

Commented [MC5]: ENERGY – please confirm how the 6.4M increase will not change the anticipated monthly cost for residential customers

Commented [MSL6]: The impact of the additional $6.4 million will not have a material impact on the average monthly cost to support the RRRP, as the costs are shared across a large customer base. However, it would be incorrect to characterize it as having no impact

As part of the Price Mitigation initiatives, there was a desire to ensure that the funding (e.g. $243.4M) for R2 customers would be adjusted annually to reflect any increases on their electricity bills. The proposed amendments to the regulation will add an escalating factor to the new base rate protection amount. Starting in 2018, and every year after, the total amount of rate protection available to Hydro One's R2 customers would be increased by a percentage, as calculated by the Ontario Energy Board.

3. Industrial Conservation Initiative Expansion (ICI)

The ICI is intended to incent a greater number of Ontario businesses to lower their electricity costs by reduction electricity demand during peak demand periods. Reducing peak demand increases the reliability of the power grid, reduces greenhouse gas (GHG) emissions and helps to defer the need to procure more resources. In 2010, when Ontario introduced ICI, the program was available to customers with a peak demand greater than 5 MW and in 2013 was subsequently expanded to allow eligible customers in certain energy-intensive industries with a peak demand greater than 3 MW and less than or equal to 5 MW to opt in to the program.

The Ministry of Energy is proposing to expand eligibility under ICI to include all electricity consumers and market participants with an average monthly peak demand greater than one MW and to remove sector restrictions so that smaller institutional and commercial businesses would be eligible. This would expand the ICI to include more than 1000 newly eligible customers. Non-ICI participants will see an increase on their bills, the extent of the impact on non-ICI participants is dependent on the uptake of the expanded program.

4. Amending O. Reg. 495/10 (General) made under the Ontario Clean Energy Benefit Act, 2010

In addition to enacting the provisions for the 8% rebate, Bill 13 also included amendments to the Ontario Clean Energy Benefit Act, 2010 that provided the necessary authority to prescribe cut-off dates for retroactive claims, eliminating further liability for reimbursements after the prescribed date. Proposed amendments will establish February 1, 2017 as the cut-off date for customer with an eligible account to come forward with unpaid OCEB claims.

Although this proposal is not expected to affect the majority of OCEB customers (as audits conducted by the Ministry of Finance identified (minimal errors in the application of the program), the potential size of the liability related to retroactive payments is highly uncertain due to data limitations. ENERGY's rough estimate for this liability is $10 million.

5. Amending O. Reg. 161/99 (Definitions and Exemptions) made under the Ontario Energy Board Act, 1998.

This proposed amendment is required to help ensure that the 8% rebate is passed on to individual units in multi-unit complexes.

Commented [MC7]: To what degree of certainty?

Commented [MSL8]: The amendments provide strong incentive for "exempt distributors" (such as multi-unit complexes) to comply with the requirement to pass on the benefits. The exemption status would only continue if they satisfy the requirement to pass on the benefit.

6. Amending O. Reg. 275/04 (Information on Invoices to Certain Classes of Consumer of Electricity) made under the Ontario Energy Board Act, 1998

This amendment allows for the rebate legislation and any regulations under it to alter the presentation of invoices. This proposal is necessary for the invoice to present the 8% rebate as a separate line item.

There is also one related Minister's Regulation on invoicing requirements (to provide clear direction to energy vendors) that is moving forward in parallel with this package.

Linkages:

Ontario's Climate Change Action Plan (CCAP)

The CCAP, released in summer 2016, reiterated the 2016 Budget commitment and stated that Ontario intends to invest in initiatives that both reduce greenhouse gas (GHG) emissions and ensure that the net impact of cap and trade would not result in an overall increase in electricity costs for commercial and industrial consumers, and that there would be a modest benefit of up to $2 per month, on average, to residential consumers.

At the time, it was estimated that redirecting cap and trade auction proceeds to lower the cost of electricity would reduce up to 3,000,000 tonnes of greenhouse gas (GHG) emissions by 2020.

Electricity Rate Mitigation Initiatives:

The OCEB was a five-year legislated program put in place as a broad-based, transitional measure to a cleaner electricity system. OCEB was also put in place following the implementation of the Harmonised Sales Tax (HST). Unlike the previous provincial Retail Sales Tax (RST), the HST (and GST) included electricity in the taxable base. OCEB expired on December 31, 2015.

The government also recently ended the electricity Debt Retirement Charge (DRC) on residential users earlier than planned, as of January 1, 2016, and put in place the low-income targeted Ontario Electricity Support Program (OESP).

Delivery:

For the 8% rebate, LDCs have indicated they will likely be operational by January 1 2017. However, the legislation gives LDCs until July 1 2017 to become operational in delivering the 8% rebate and associated messaging. If LDCs are not operational on January 1 2017, customers would receive any back-owed rebate in a lump sum once the vendor was able to deliver the rebate.

A dedicated information portal will be created by ENERGY for oversight and tracking of the rebate (similar to what was created under the Clean Energy Benefit program).

Pending approval of the increased amount of rate protection through the RRRP, the OEB will be required to set the RRRP rate. This rate is typically set by the OEB in December in time for LDCs to begin charging the approved rate in January. Hydro One would implement the updated RRRP subsidy for eligible customers (low-density R2 rate class) for consumption on or after January 1, 2017.
The ICI expansion would be implemented by the IESO and LDCs by such that newly eligible ICI participants will be able to benefit from reduced electricity rates by July 1, 2017

Stakeholder Consultations:

Regulatory Registry

- On September 28, the Ministry of Energy posted a proposal for comment on the Regulatory Registry to provide stakeholders with the opportunity to comment on the electricity mitigation initiative.
- The posting included the proposed changes to the RRRP, ICI and new regulations needed to support the 8% rebate.
- [placeholder – summary of RR feedback]

LDC Working Group

- The Ministry hosted an LDC Working Group with nearly 40 LDCs representatives where feedback was provided to the ministry to consider in the development of the regulatory package. This included feedback on the billing system limitations that was incorporated into proposed bill presentment requirements. Amended requirements included reducing the number of characters in the mandated on-bill messaging to accommodate the on-bill space limitations for some LDCs .

Standing Committee of Justice – Public Hearings for Bill 13

- On October 3, a number of organizations as well as individual citizens made presentations to the standing committee on Justice regarding Bill 13, including requesting additional rate relief, support for the rate relief package, and support for provisions that would limit disconnection of customers.

Risks

- The 8% rebate would be structured and delivered in a similar fashion to the former OCEB. There is a risk that the government could be criticized for replacing the OCEB with a smaller rate relief package, just one year after the OCEB ended.
- This proposal does not align with the 2016 Budget fiscal plan and there are no proposed offsets identified.
- The proposal does not include a scheduled review period or an end date for the legislated benefit, resulting in an ongoing fiscal pressure that could only be removed by legislative amendment.
- For the rate-based portions of the proposal (i.e., the expansion of ICI and RRRP) the result is an increase in costs for ratepayers not included in those programs (i.e., primarily residential, small business and farms). Shifting costs to some electricity consumers to lower rates for others carries the risk that the charge would be characterized as an unconstitutional tax. To establish that the charge is legitimate, it must be established that the purpose and effect of the charge is to facilitate the maintenance of a financially viable electricity system by way of load management or some other feature under which those who are subsidized provide an overall system benefit enjoyed by those who subsidize them.
    - ICI is intended to incentivize a greater number of Ontario businesses to lower their electricity costs by shifting energy demand away from peak demand periods. Reducing peak demand can increase the reliability of the power grid, reduce greenhouse gas emissions and help defer the need for new peaking generation over the longer-term. Note: There are now about 300 participating consumers who collectively reduced Ontario's peak demand by an estimated 1,000 MW in 2015.
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- Under the proposal, some eligible consumers (e.g., multi-unit residential buildings) may receive multiple benefits (8% rebate and proceeds recycling), while others would be eligible for only one type of benefit.

Commented [MC9]: What was the specific change?

Commented [MC10]: ENERGY to note any additional risks

Commented [MC11]: ENERGY to comment

Commented [MSL12]: The RRRP has been in place since the early 2000s and the increased amount of rate protection does not impact the legitimacy of the charge.

- The Electricity Distributor Association raised concerns related to the costs of supporting the proposed increased RRRP, as the RRRP is paid for by a charge across all LDCs

Commented [MC13]: ENERGY to provide – response to the concern/mitigation measures

Commented [MSL14]: See comments above